

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

PATRICK SAGET,)
et al.,)
Plaintiffs,) Case No.
vs.) 18-cv-01599-WFK-ST
DONALD TRUMP, President)
of the United States,)
et al.,)
Defendants.)

Videotaped Deposition of KATHY NUEBEL KOVARIK

Washington, D.C.

December 21, 2018

Reported by: Michele E. Eddy

Job No. 450090

Magna Legal Services
866-624-6221
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1 Videotaped Deposition of Kathy Nuebel Kovarik, held
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Mayer Brown, LLP

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1999 K Street, Northwest

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Washington, D.C.

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19 Pursuant to Notice, when were present on behalf
20 of the respective parties:

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22

1 A P P E A R A N C E S

2

3 ON BEHALF OF THE PLAINTIFFS:

4 BRANTLEY WEBB, ESQUIRE

5 GEOFFREY M. PIPOLY, ESQUIRE

6 Mayer Brown

7 1999 K Street, Northwest

8 Washington, D.C. 20006

9 (202) 263-3188

10 bwebb@mayerbrown.com

11 gpipoly@mayerbrown.com

12

13 ON BEHALF OF THE DEFENDANTS:

14 JAMES R. CHO, ESQUIRE

15 U.S. Department of Justice

16 United States Attorney's Office

17 Eastern District of New York

18 271 Cadman Plaza East

19 Brooklyn, New York 11201

20 (718) 254-6519

21 james.cho@usdoj.gov

22

1 ATTENDANCE, Continued

2

3 ON BEHALF OF THE DEFENDANTS:

4 KEVIN SNELL, ESQUIRE

5 U.S. Department of Justice

6 Federal Programs Branch

7 1100 L Street, Northwest

8 Washington, D.C. 20530

9 (202) 305-0924

10 kevin.snell@usdoj.gov

11

12 ALSO PRESENT:

13 Sarah Vuong, Associate Counsel

14 U.S. Citizenship and Immigration Services

15 David Voigtsberger, Videographer

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11 Katherine Kovarik

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13 Exhibit 116 Email chain; top email dated 48

14 5-1-17 from Kathryn Anderson,

15 etc.; CP_00003778 - 3791

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17 Exhibit 117 Email chain; top email dated 72

18 4-7-17 from Gene Hamilton to

19 Francis Cissna, etc.;

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4 Exhibit 130 Email dated 12-7-17 from Ian 255

5 Smith to Kathy Nuebel Kovarik;

6 CP_00003431 - 3433

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8 Exhibit 131 The Washington Post article 267

9 titled "Homeland Security staffer

10 with White nationalist ties attended

11 White House policy meetings" by

12 Nick Miroff dated August 30

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1 P R O C E E D I N G S

2 Washington, D.C.

3 December 21, 2018

4 - - -

5 THE VIDEOGRAPHER: Good morning. We
6 are now on the record. This begins tape
7 number 1 of the deposition of Kathy Kovarik in
8 the matter of Saget, et al. versus Donald
9 Trump, President of the United States, in the
10 United States District Court in the Eastern
11 District of New York.

12 Today is December 21st, 2018, and
13 the time is 9:59 a.m.

14 This deposition is being taken at
15 1999 K Street, Northwest, Washington, D.C. at
16 the request of Mayer Brown.

17 The videographer today is David
18 Voitsberger of Magna Legal Services, and the
19 court reporter is Michele Eddy of Magna Legal
20 Services.

21 Will counsel please introduce
22 yourselves and who you represent.

1 MS. WEBB: Brantley Webb from Mayer
2 Brown on behalf of the plaintiffs.

3 MR. PIPOLY: Jeffrey Pipoly, Mayer
4 Brown, on behalf of the plaintiffs.

5 MR. CHO: Good morning. James Cho
6 with the U.S. Attorney's Office here on behalf
7 of the government.

8 MR. SNELL: Kevin Snell, Civil
9 Division of the Federal Programs Branch of the
10 government.

11 MS. VUONG: Sarah Vuong, United
12 States Citizenship and Immigration Services.

13 THE VIDEOGRAPHER: Would the court
14 reporter please swear in the witness.

15 KATHY NUEBEL KOVARIK,
16 having been duly sworn, testified as follows:

17 MR. CHO: Before we get started, I
18 just want to put on the record that, based on
19 prior conversations with Plaintiffs' counsel,
20 the deposition today of Kathy Nuebel Kovarik
21 is limited to matters that were not discussed
22 at her prior deposition on August 3rd, 2018.

1 MR. PIPOLY: That's not accurate.

2 We didn't agree to that. You raised that.

3 MR. CHO: Well, we had a discussion
4 about it.

5 MS. WEBB: You had a discussion
6 about it, but I want to be clear that we did
7 not -- the Plaintiffs did not agree to so
8 limit the testimony.

9 MR. CHO: Okay. Well, we can
10 discuss it off the record.

11 MR. PIPOLY: Okay.

12 MS. WEBB: We can go off the record
13 now if you would like. We might as well.

14 MR. CHO: Okay. No, we can to -- we
15 can proceed. I'm just noting that for the
16 record.

17 MR. PIPOLY: So, I mean, for the
18 record, the Defendants made a request to limit
19 the testimony. The Plaintiffs did not agree.
20 The Defendants did not file a motion seeking
21 the court to resolve the issue.

22 MR. CHO: Okay. Well, we can

1 proceed.

2 MR. PIPOLY: Okay.

3 EXAMINATION BY COUNSEL FOR PLAINTIFFS

4 BY MS. WEBB:

5 Q All right. Could you state your
6 full name for the record.

7 A Sure. Kathy Nuebel Kovarik.

8 Q And could you give a home address or
9 generally where you live.

10 A I live --

11 MR. CHO: Don't give a home address.
12 Identify the city where you live.

13 A I live in Washington, D.C.

14 Q Okay.

15 MS. WEBB: We'll mark this as 115.

16 MR. CHO: I'm sorry, what number is
17 this?

18 MS. WEBB: This is 115 is what we're
19 starting at.

20 MR. CHO: 115?

21 MS. WEBB: Correct.

22 MR. SNELL: Do you have a third

1 copy?

2 MS. WEBB: I don't think I do of
3 this. I think I actually do today have --
4 let's see, one, two, three, four, yes, I'll
5 have copies.

6 It's 115.

7 (Exhibit 115 was marked for identification
8 and attached to the deposition transcript.)

9 BY MS. WEBB:

10 Q Okay. What would you -- what would
11 you preferred to be called today?

12 A My name is Kathy, not Katherine, so
13 this is incorrect.

14 Q Have you seen this before?

15 A No.

16 Q Okay. Do you understand that it's
17 addressed to you and that you're here today to
18 testify pursuant to this notice and subpoena?

19 A Yes.

20 Q Okay. Now, have you been deposed --
21 I know you've been deposed once before. Is
22 that correct?

1 A That is correct.

2 Q Okay. So I'll just remind you of
3 the basic ground rules of this deposition. So
4 that deposition was a 30(b)(6) deposition, so
5 you were testifying on behalf of your agency.
6 Do you understand that?

7 A Yes.

8 Q And today this is a fact -- you're
9 here as a fact witness, so you're going to be
10 testifying as to what you know, your
11 experiences. Does that make sense?

12 A Yes.

13 Q Okay. So just to refresh, the court
14 reporter is making a transcript. You should
15 answer audibly so she can understand instead
16 of shaking your head.

17 I'll be asking questions. Just
18 allow me to finish my question before you
19 answer.

20 If you don't understand a question,
21 please ask me to clarify. And if you don't,
22 I'll just assume that you understand the

1 question. Does that make sense?

2 A Yes.

3 Q If you would like to amend an answer
4 at any time, please let me know, otherwise
5 I'll assume that you've given a full and
6 complete answer.

7 And you can take a break at any
8 time. I would just ask that you answer the
9 question that I have pending.

10 A Okay.

11 Q Now, your attorney will make
12 objections, but those are for the record. So
13 unless he instructs you not to answer, you are
14 still required to answer.

15 Do you understand?

16 A Yes.

17 Q Is there any reason you can think of
18 why you cannot give full and complete answers
19 today?

20 A No.

21 Q Okay. You're not suffering from any
22 physical or mental conditions that would make

1 you unable to provide full and complete,
2 truthful testimony today.

3 A No.

4 Q I have to ask, are you on any
5 medication that would also prevent you from
6 giving full, complete, and truthful answers
7 today?

8 A No.

9 Q Is there any other reason why you
10 might not be able to provide full and accurate
11 testimony here today?

12 A Not that I know of, no.

13 Q Okay. Any questions for me?

14 A No.

15 Q Okay. Could you describe what you
16 did today to prepare for this deposition?

17 MR. CHO: Object to form. Object on
18 the grounds it may seek information that's
19 attorney-client privilege, but you can answer.

20 A So, to prepare I spoke with counsels
21 and spent time talking about --

22 MR. CHO: Again, don't discuss --

1 don't discuss anything that we talked about.

2 THE WITNESS: Sure.

3 MR. CHO: You can -- but go ahead
4 with your answer.

5 A So, I just talked to counsels and I
6 also read the law and the notices.

7 Q Okay. The statute --

8 A The statute.

9 Q -- at issue?

10 A Correct.

11 Q And the Federal Register Notices?

12 A For Haiti.

13 Q For Haiti, okay.

14 How many times did you meet with
15 counsel?

16 A Once.

17 Q Was anyone else present at the
18 meeting other than your counsel?

19 A No.

20 Q Okay. Did you have any
21 communications with anyone else about your
22 deposition here today?

1 A No.

2 Q Did you have any communications with
3 anyone else in this case about their
4 depositions prior to today?

5 A No.

6 Q So I understand, you were deposed in
7 the Ramos matter this past summer, correct?

8 A Correct.

9 Q And did you have a chance to review
10 the transcript of your testimony there?

11 A I did not.

12 Q You did not. So you did not sign --
13 or review and sign --

14 A Not recently.

15 Q Oh.

16 A I, in fact, received a copy of the
17 transcript after my deposition.

18 Q Correct. Do you recall reviewing
19 and signing it?

20 A I don't recall signing it, and I
21 don't recall reviewing it.

22 Q Maybe we can check to see if you

1 signed. It's not a quiz. Just to check.

2 Okay, it looks like you didn't sign
3 this copy.

4 At the time did you feel that your
5 testimony in that deposition was accurate?

6 A Yes.

7 Q And truthful?

8 A Yes.

9 Q Did you talk with anyone else about
10 that deposition other than counsel?

11 A No.

12 Q Are you aware that following your
13 deposition, Ramos, the judge in that case,
14 entered an injunction temporarily halting the
15 affect of the TPS termination for Haiti?

16 A Yes.

17 MR. CHO: Object to the form. You
18 can answer.

19 A I am aware of an injunction.

20 Q Have you discussed that injunction
21 with anyone other than counsel?

22 A Well, I am only aware of it because

1 in my current capacity I had to make sure that
2 we comply with the injunction, so ...

3 Q And how did you -- how did you do
4 that?

5 MR. CHO: Object to the form.

6 A Well, in order to comply with the
7 court order, we had to issue a Federal
8 Register Notice to allow -- to notify the
9 public of the steps that they need to take and
10 what steps the government would take, so I
11 helped in drafting that notice.

12 Q Okay. Aside from that notice, are
13 you aware of any other changes to policies or
14 practices at USCIS related to Haiti TPS?

15 MR. CHO: Object to the form.

16 A No.

17 Q Let's go over a bit of your own
18 background and history.

19 A Sure.

20 Q Did you graduate from college?

21 A I did.

22 Q Where did you go?

1 A I went to Denison University in
2 Granville, Ohio.

3 Q What was your major?

4 A It was political science with a
5 Spanish minor.

6 Q Do you speak Spanish?

7 A I do.

8 Q I understand that you spent some
9 time working for the U.S. Senate. Could you
10 just walk me through your roles there.

11 A Sure.

12 Q Starting with your earliest one.

13 A I interned for Senator Grassley in
14 1996, and when -- upon gradation from college,
15 I went to work for Senator Grassley full-time
16 on his -- in his personal office. So I had
17 several roles from receptionist to legislative
18 correspondent to eventually legislative
19 assistant. And I later turned -- I went from
20 the Senate -- the Senator's personal office to
21 the Senate Judiciary Committee where I became
22 professional staff.

1 Q Okay. And during which of those
2 roles -- during any of those roles did you
3 work on immigration issues for the Senator?

4 A So, I was a legislative
5 correspondent, which answers mail, does
6 research for policy advisors, and I started
7 immigration at that time, it was around,
8 probably early 2000. And then as a
9 legislative aide I -- my portfolio included
10 immigration issues, so in 2001 I was the
11 policy advisor for the Senator on this issue,
12 and so I worked on immigration until I left in
13 2018 -- I'm sorry, '17. So for nearly 16, 17
14 years I worked on immigration.

15 Q Is that the primary issue that you
16 worked on, would you say?

17 A So -- that was the primary issue
18 that I worked on. And when I was in -- on the
19 Senate Judiciary Committee, I was the lead
20 advisor on immigration issues and not only for
21 the Senator but also for the committee, and
22 also really the point person for the entire

1 U.S. Senate. And I worked solely on
2 immigration issues in the last few years of my
3 time on the Senate.

4 Q Were you involved in working with
5 Senator Grassley on his decision to sponsor
6 the Dream Act?

7 MR. CHO: Object to the form.

8 A Yes, I worked on that issue with
9 Senator Grassley, yes.

10 Q Could you just describe for the
11 record what the Dream Act is.

12 A Well, the Dream Act has been around
13 since 2000 and it has had several different
14 shapes and versions, but essentially it
15 provides a path to citizenship for certain
16 individuals under a certain age, depending on
17 how they entered the United States and under
18 certain conditions.

19 Q Sure.

20 What -- in what capacity did you
21 assist him with his work on that act?

22 A So, it was my job to do the

1 research, to review the legislation, and also
2 to advise him on different amendments that may
3 -- may come up, different policy positions and
4 options.

5 Q Okay. Did you study the Dream Act
6 of population in that research, the population
7 that it would apply to?

8 MR. CHO: Object to the form.

9 A I don't recall. It was early 2000
10 when -- when it first came up. I did a lot of
11 research on the Dream Act and the impact that
12 it would have, so that would just be one issue
13 where it would be researched.

14 Q Okay. Was it your recommendation to
15 Senator Grassley that he sponsor the bill?

16 MR. CHO: Object to the form. I'm
17 also going to object on the grounds that seeks
18 information leading to internal governmental
19 deliberations. Also the crux of this lawsuit
20 is Haiti TPS, not the Dream Act, so I would
21 ask counsel to rephrase the question.

22 Q It's not essential.

1 While you were working for Senator
2 Grassley, did you work on any TPS-related
3 issues?

4 A Not necessarily. Only if it came up
5 in the -- in the context of immigration
6 reform. There were several immigration reform
7 pieces of legislation in 2006, 2007, 2012,
8 huge bills, over 1200 pages long, and there
9 may have been a TPS provision in those bills.
10 I don't recall what they were, but that's the
11 extent that I would have worked on TPS.

12 Q Okay. Did you study the TPS
13 beneficiary populations in any way while you
14 were there? Do you recall?

15 MR. CHO: Object to the form. You
16 can answer.

17 A I don't recall. I was aware of what
18 -- of TPS and who was on -- what countries
19 were designated.

20 Q Okay. Do you recall any meetings
21 from your time there where TPS was discussed?

22 A I don't.

1 MR. CHO: Object to the form.

2 Q Okay.

3 A I don't recall specific meetings on
4 that issue.

5 Q Just a couple more questions on your
6 background. Do you have any military service
7 in your background?

8 A I do not.

9 Q I assume you've never been convicted
10 of a crime?

11 A No, I have not.

12 Q Okay. Just very broad -- generally,
13 could you describe your job responsibilities
14 currently in your position at USCIS.

15 A Sure. So I'm chief of the Office of
16 Policy and Strategy, and my office is
17 responsible to advise the Director and to
18 suggest policy changes or -- we're mostly
19 responsible for the policy manual which guides
20 adjudicators, as well as rules and
21 regulations, the notice and comment rulemaking
22 process.

1 Q Okay, thank you.

2 And were you responsible for making
3 a recommendation to the DHS Secretary on
4 whether to end or continue TPS for Haiti?

5 MR. CHO: Object to the form.

6 A My job was to provide information
7 for the Director to make a recommendation to
8 the Secretary.

9 Q Were you responsible for drafting
10 the decision memo that went to the Director?

11 MR. CHO: Object to the form.

12 A It was my responsibility -- Office
13 of Policy and Strategy has always been the
14 beginning of the process for TPS, and so we do
15 draft a decision memo for the Director to send
16 to the Secretary.

17 Q And did you make a determination as
18 to what recommendation should go in that memo
19 that went to the Director on Haiti?

20 MR. CHO: Object to the form, and
21 also on the grounds that it seeks information
22 leading to internal governmental

1 deliberations. The witness can answer.

2 A It was my job to make sure that the
3 memo not only included country conditions but
4 to also have a placeholder for the Director to
5 provide a recommendation to the Secretary.

6 Q Okay. And did the memo recommend a
7 particular decision to the Secretary?

8 A Yes.

9 MR. CHO: Object to the form.
10 Again, it calls for internal governmental
11 deliberations. Maybe you can kind of bracket
12 your question. What decision memo are you
13 referring to?

14 MS. WEBB: The decision memo on
15 Haiti TPS.

16 MR. CHO: Right. There are a number
17 of decision memos.

18 MS. WEBB: The final, I mean, the
19 one that he signed we're now talking about.

20 MR. CHO: Which one are you
21 referring to? There are multiple.

22 MS. WEBB: The number third, 2017,

1 final decision memo that went to Director
2 Cissna. Does that help? Thank you for that.
3 There are a number of them.

4 A So if there was a recommendation in
5 there, yes, then my office was responsible for
6 making sure that it was -- that it included a
7 recommendation.

8 Q Okay. So you mentioned your -- your
9 office, your staff was responsible for doing
10 the research that went into the memo and for
11 making sure it included a recommendation,
12 correct?

13 MR. CHO: Object to the form. You
14 can answer.

15 A Let me restate that just because I
16 don't want it to -- just restate it correctly,
17 that my office is responsible for compiling
18 information, putting together a memo, which
19 includes country conditions and other input as
20 necessary, including a recommendation and
21 providing a draft for the Director to
22 consider.

1 Q Okay, thank you.

2 So compiling the information.

3 A Yes.

4 Q Yes, okay.

5 So before commencing this compiling
6 of information, did you make a determination
7 as to what the recommendation in the decision
8 memo should be?

9 MR. CHO: Object to the form. Also
10 to the extent it seeks information leading to
11 internal governmental deliberations, but the
12 witness can answer.

13 A Well, generally when a TPS memo is
14 written, I usually work with my staff and
15 discuss not only the country conditions but
16 also what their recommendation would be, and
17 then we ultimately provide -- we have
18 discussions, and the same discussions are had
19 with the Director.

20 Q Okay. Before the compiling of
21 information begins, correct?

22 A Oh, before it begins, no. No, we

1 look at the country conditions. I think the
2 recommendation is probably the last thing that
3 we consider.

4 Q Okay. Before beginning to compile
5 information for this decision memo, was it
6 ever suggested to you in advance what the
7 recommendation should be?

8 A No.

9 MR. CHO: Object to the form. Just
10 for clarity, the questions you're asking
11 related to the November 3rd, 2017, memo?

12 MS. WEBB: Yes. I'll start
13 repeating that.

14 BY MS. WEBB:

15 Q So, in other words, you were never
16 told that the recommendation should be
17 termination or should be extension before you
18 started compiling information for it --

19 MR. CHO: Object to the form.

20 Q -- for the 2017 TPS, November 2017
21 TPS?

22 MR. CHO: Also object on the grounds

1 that it seeks internal governmental
2 deliberations, but the witness can answer.

3 A No.

4 Q And the same question, was it ever
5 suggested to you in some way, implicitly, as
6 to what the recommendation should be with
7 respect to the November 2017 Haiti TPS memo
8 before you began compiling that research?

9 MR. CHO: Object to the form.

10 A No.

11 Q Could you describe, just at a high
12 level, the types of -- the kinds of
13 information that your office compiles for the
14 memo.

15 A Sure. So when we write a memo, we
16 want to make sure we know everything about
17 that country that there is to know. So
18 different countries may include different
19 information, such as the environmental issues
20 that they have, agriculture, trade, economic,
21 tourism issues. Displacement may -- may be
22 significant in some -- in some memos. I'm not

1 entirely -- I don't entirely remember all the
2 factors that were included in the Haiti, but
3 generally it's almost everything about a
4 country that the Secretary and the Director
5 would need to know.

6 MS. WEBB: So not to repeat the
7 testimony in her 30(b)(6) deposition, but I
8 just want to very briefly go over a little bit
9 of sort of her daily routine and her
10 responsibilities.

11 Q So you report to Director Cissna,
12 correct?

13 A That is correct.

14 Q How frequently do you meet with him
15 or speak with him?

16 A On a daily basis.

17 Q Okay. By email, phone?

18 A Email, phone, in-person.

19 Q Okay. You have meetings daily with
20 him?

21 A That is correct.

22 MR. CHO: Object to the form.

1 Q And those daily meetings, does
2 anyone else attend them other than you and
3 Director Cissna?

4 MR. CHO: Object to the form.

5 A Yes. So his Deputy Director or
6 Acting Deputy Director, his Chief of Staff,
7 his Deputy Chief of Staff, and his counsel and
8 advisors.

9 Q Okay. And who are those people?

10 MR. CHO: Object to the form.

11 Q Just for the -- just for the record.

12 A Well, they have changed. So --

13 Q Currently.

14 A Currently? The Acting Deputy
15 Director is Tracy Renaud, R-E-N-A-U-D.
16 Counsel is Craig Symons. Chief of Staff is
17 Laura Reece. His advisor, Kaitlin Stoddard.
18 And just recently we've included a new
19 employee, Kathryn Rexrode, who is an Associate
20 Director for the External Affairs Division.

21 Q Okay, thank you.

22 And are you supported by a senior

1 advisor?

2 MR. CHO: Object to the form.

3 A I do have a senior advisor, yes.

4 Q Okay. And who is that?

5 A Robert Law.

6 Q Does he ever attend these meetings
7 as well?

8 MR. CHO: Object to form.

9 A No.

10 Q Does anyone from outside USCIS ever
11 attend these meetings?

12 MR. CHO: Object to the form.

13 A No.

14 Q Okay. Other than these daily
15 meetings, do you have any other standing
16 meetings with Director Cissna?

17 A Sure. So he does one-on-ones with
18 associate directors with the agency. So I,
19 along with counsel, we -- we have a standing
20 meeting on Mondays.

21 Q Okay. And what is the general
22 subject matter of those meetings, those

1 Mondays -- Monday meetings?

2 A We provide updates on regulations
3 and policy manual updates. Counsel may
4 provide updates on his end. So it's normally
5 just an update. It can be office updates,
6 vacancies and the like.

7 Q Okay. And is that Craig Symons,
8 counsel, that you're referring to?

9 A Yes.

10 Q And are those meetings ever attended
11 by anyone other than the three of you?

12 MR. CHO: Object to the form.

13 A Currently there are only us three,
14 and in the past we have brought in other
15 people, subject matter experts, meaning a
16 deputy at times so he can relay information
17 back to the staff.

18 Q Okay.

19 A So it has changed, but currently it
20 is us three.

21 Q Okay. Do you have any meetings,
22 standing meetings, related to immigration at

1 the White House?

2 MR. CHO: Object to the form.

3 A There have been standing meetings.

4 Currently they are not happening. They have
5 happened in the past.

6 Q When, approximately, were they
7 occurring?

8 A There are separate -- different
9 types of meetings. So you might have internal
10 -- or interagency meetings, what are known as
11 policy council committees. And those happen
12 frequently but not on a set basis.

13 And then there's -- there was a
14 weekly meeting with interagency partners on
15 immigration issues that would convene on
16 Friday afternoons with the Domestic Policy
17 Council.

18 Q Okay. And that one is not currently
19 happening?

20 A Right.

21 Q Okay. When, approximately, was that
22 meeting regularly occurring?

1 MR. CHO: Object to the form.

2 A It's been so long, I would say it
3 might have been in -- I can't remember the
4 last time the meeting actually happened, but
5 some, you know -- 2017, maybe summer of 2017
6 to 2018.

7 Q Okay. Okay. And for that
8 interagency partners meeting, who from USCIS
9 would attend that meeting?

10 MR. CHO: Object to the form. You
11 can answer.

12 A So, that would also change. I
13 wouldn't go -- wouldn't go every Friday. So
14 Craig Symons, counsel, would attend and Robert
15 Law would attend. Normally it was the three
16 of us, and one of us would try to attend, not
17 always.

18 Q Okay. What about anyone else from
19 DHS outside of USCIS?

20 MR. CHO: Object to the form.

21 A Yes, and that -- and that changed,
22 too. DHS policy would -- Michael Dougherty

1 would attend. And there's been turnover, but
2 their senior advisors from DHS may attend.

3 Q Any names come to mind?

4 A Gene Hamilton was an advisor, and
5 Tracy Short was an advisor at one point.

6 Q Okay, great. Thank you.

7 Who at -- anyone outside of DHS
8 USCIS, who else would attend?

9 A Outside of DHS?

10 Q Yes.

11 MR. CHO: Object to the form.

12 A So, you might have Department of
13 Justice attend or Department of State attend.

14 Q Okay. What about anyone from the
15 Domestic Policy Council?

16 MR. CHO: Object to the form.

17 A Yes, Domestic Policy Council staff
18 would attend.

19 Q Okay. And what about anyone from
20 the White House?

21 MR. CHO: Object to the form.

22 A Stephen Miller would attend. I

1 don't know if he's with the Domestic Policy
2 Council or if he's White House staff, but ...

3 Q And would he attend regularly?

4 MR. CHO: Object to the form.

5 A He was not there all the time, but
6 regularly, yes.

7 Q Okay. Now, would TPS ever come up
8 at those Friday meetings?

9 MR. CHO: Object on the grounds that
10 it seeks to lead to internal governmental
11 deliberations, as well as presidential
12 communications, but the witness can answer
13 with that limitation in mind.

14 A So generally issues came up only if
15 they were on -- on the agenda or something was
16 happening in that realm. So it may have come
17 up as an update, but not a general discussion
18 on TPS.

19 Q Who would provide those updates?

20 MR. CHO: Object to the form.

21 A That would normally be me if I
22 provided an update on USCIS actions or agenda

1 items.

2 Q Okay. And you don't remember any
3 discussion around TPS based on those updates?

4 A No, I don't.

5 MR. CHO: Object to the form.

6 Q You didn't get any questions from
7 anyone --

8 MR. CHO: Object to the form.

9 Q -- about the material you were
10 updating on?

11 MR. CHO: Object to the form.

12 A No, I don't recall any discussion on
13 TPS. I remember -- we provide updates, and it
14 probably was an update, but no discussion on
15 the issue.

16 Q Did the meeting generally consist of
17 people making updates to the group?

18 A Yes.

19 Q Okay. So there's no dialogue about
20 the updates? It was just presentations?

21 MR. CHO: Object to the form. Also
22 on the grounds that it seeks information

1 relating to presidential communications, but
2 the witness can answer with that limitation.

3 A A lot of it was updates. There may
4 have -- discussions may have happened
5 depending on an update, but most of the time
6 it was a meeting just to say what was going on
7 in each department.

8 Q What responsibilities does your
9 senior advisor, Mr. Law, have?

10 A So my senior advisor -- I had a
11 senior advisor before Rob Law, and that person
12 helped -- helps in reviewing materials. A lot
13 of that is reviewing materials or drafting
14 materials in some instances. But we have a
15 lot of subject matter experts in Office of
16 Policy and Strategy that do the work, and then
17 it flows up through what we call the front
18 office. So Rob would review not everything
19 because sometimes I would review it first, so
20 he -- but he does a lot of reviewing.

21 Q Okay. Do you remember how you met
22 Mr. Law?

1 A I was working on the Hill at the
2 time.

3 Q Okay. Do you remember approximately
4 when that was?

5 A No.

6 Q On what occasion did you have to
7 meet him while you were working on the Hill?

8 MR. CHO: Object to the form.

9 A I believe it was a meet-and-greet
10 when I was lead staffer on the Senate
11 Judiciary Committee. I was responsible for
12 meeting with all constituents, industry
13 organizations, entities that had an
14 immigration issue. So I -- if -- it was a
15 meet-and-greet where I got to know him.

16 Q Okay. Do you recall meeting him or
17 meeting with him more than once while you were
18 on the Hill?

19 A Just a few times. Not regular.
20 Maybe two times, three times.

21 Q Okay. Did you have any other
22 communications with him during your time on

1 the Hill?

2 A I don't recall. Possibly.

3 Q Do you recall ever discussing TPS
4 with him while you were on the Hill?

5 A No.

6 Q Do you know where he worked at the
7 time?

8 A Yes.

9 Q Where was that?

10 A FAIR. It stands for Federation
11 American Immigration -- I don't know the
12 acronym, what it stands for.

13 Q Federation American Immigration
14 Reform, something like that.

15 A Okay.

16 MS. WEBB: Okay. Let's mark ... I
17 apologize. Could we take a short break?

18 MR. CHO: How much time do you need?

19 MS. WEBB: I need to find a
20 document.

21 Five minutes.

22 MR. CHO: Five minutes, all right.

1 THE VIDEOGRAPHER: Going off the
2 record. 10:36.

3 (A brief recess was taken.)

4 THE VIDEOGRAPHER: And we're back on
5 the record at 10:42.

6 BY MS. WEBB:

7 Q Okay. A couple more questions about
8 Mr. Law. So when you met with him those
9 couple of times while you were working on the
10 Hill, do you recall generally what kinds of
11 issues you would discuss with him?

12 A Generally we would talk about
13 legislation that was before the Senate, but I
14 don't recall the specific conversations I've
15 ever had with him, and they were very general,
16 though.

17 Q Okay. And did you hire him into his
18 current position?

19 MR. CHO: Object to the form.

20 A I don't have the authority to hire
21 so all the hiring goes through Department of
22 Homeland Security, so they have to approve it,

1 and then it goes through the Office of
2 Personnel Management.

3 Q Sure.

4 How did he come to be hired as your
5 senior advisor?

6 MR. CHO: Object to the form.

7 A So, we have the ability within
8 agencies to hire Schedule C or political
9 appointees, and so recommendations were always
10 made. I don't recall the specifics of how he
11 came about or how we got his resume, but --
12 but -- I don't know if he was destined to go
13 to the Office of Policy and Strategy or if I
14 pursued him. I don't recall.

15 Q Or, I'm sorry?

16 A If I pursued him.

17 Q So you don't recall whether you
18 recommended him to be hired?

19 A I may have recommended him. I
20 needed a senior advisor so I was willing to
21 take any recommendations that were made to me,
22 and I, you know, probably helped hire him.

1 Q Okay. And do you recall who
2 recommended him to you?

3 A I don't.

4 Q One more question, I guess, why --
5 why do you think he was qualified for the job,
6 working for you?

7 MR. CHO: Object to the form.

8 A Well, he has a law degree, so he has
9 different background than I do, and we need
10 someone with immigration knowledge, which is
11 hard to come by. So he has a good background
12 in immigration law.

13 Q Okay. All right.

14 MS. WEBB: Let's mark Exhibit 116.

15 (Exhibit 116 was marked for identification
16 and attached to the deposition transcript.)

17 MS. WEBB: And what's the Bates
18 number on that? 3778.

19 MR. PIPOLY: 3778?

20 MS. WEBB: Yes.

21 MR. PIPOLY: Thank you.

22

1 BY MS. WEBB:

2 Q So, in general, I will pass you a
3 bunch of documents today. Take your time to
4 review them. Take as long as you need. And
5 just let me know when you're ready for a
6 question.

7 A (Document review.)

8 MR. CHO: The government objects to
9 Exhibit 116 on the grounds that it contains
10 internal governmental deliberations, but the
11 witness can answer questions about this
12 exhibit.

13 A (Document review.)

14 Okay.

15 Q It's one of the longer ones.

16 A Yeah.

17 Q Okay. Actually, just a couple more
18 background questions for you that I thought of
19 while you were reading. You mentioned
20 Schedule C, Schedule C, employees, political
21 appointees. Can you just describe for the
22 record what that is.

1 A Sure. I only know it by title, but
2 schedule -- there are different schedules for
3 government workers. Schedule A and C is all I
4 know.

5 Q Okay.

6 A I'm sorry, Schedule C is just a
7 political appointee, I believe.

8 Q Okay. And that is what you are,
9 correct?

10 A It's how I initially entered the
11 government.

12 Q Okay.

13 A Under a Schedule C as a senior
14 advisor to then Secretary Kelly, but then I
15 became a senior executive with CIS.

16 Q Is that also a political position?

17 A Yes.

18 Q Great.

19 Turning to the -- we're going to go
20 to the very first email in the chain, which is
21 on the very last page.

22 A Okay.

1 Q So who are -- excuse me -- who is
2 Brandon Prelogar?

3 A Brandon Prelogar is the Division
4 Chief in the International and Humanitarian
5 Divisions under my directorate, OP&S, Office
6 of Policy and Strategy.

7 Q And what about Kathryn Anderson?

8 A Kathryn Anderson worked under
9 Brandon in that same division in my office.

10 Q Okay. Does she still work under
11 Brandon?

12 A She does not.

13 Q Okay. Where does she work now?

14 A She works in a separate directorate
15 called Refugee Asylum and International
16 Operations, RAIO.

17 Q That is RAIO.

18 What about Mark Phillips?

19 A Mark Phillips is also a division
20 chief who oversees our Residence and
21 Naturalization Division. So he has -- yeah.

22 Q Residence and naturalization.

1 A Yes.

2 Q Okay. The subject of the email is

3 TPS data, correct?

4 A Correct.

5 Q The date on the email is Friday,

6 April 7th, 2017. Was that your first week on

7 the job?

8 A I started as chief the first week of

9 April, yes. So -- yes. But not -- not my

10 first week at U.S. Citizenship and Immigration

11 Service.

12 Q Okay. Prior to -- excuse me.

13 So when you began as chief, had you

14 had any training on TPS?

15 MR. CHO: Object to the form.

16 A There was no training specific on

17 TPS.

18 Q And the three individuals on the

19 email, these are what you, I think, earlier

20 described subject matter specialists --

21 A Experts.

22 Q -- or experts. Subject matter

1 experts.

2 And are they -- are these
3 approximately political appointees or career
4 employees?

5 A Career.

6 Q And would you say that you would
7 generally defer to them on subject matter
8 research that they provide you?

9 A Yes.

10 MR. CHO: Object to the form.

11 Q Okay. So, you say, "Hey there. I
12 am hoping you guys can help pull some data, to
13 the extent possible, by the end of the day."

14 Did I read that right?

15 MR. CHO: Objection. The document
16 speaks for itself.

17 A That is correct.

18 Q So you're asking for the information
19 below by the end of that Friday, correct?

20 MR. CHO: Object to the form. The
21 document speaks for itself.

22 A To the extent possible.

1 Q At the time did you have an
2 understanding of how long it might take to get
3 the information?

4 MR. CHO: Object to the form.

5 A No, I did not.

6 Q So you ask them for -- you say,
7 "Aside from that chart already provided with
8 the country/year/number of TPS holders, here's
9 what I need: Details on how many TPS holders
10 are on public and private relief"; 2, "any
11 demographic data, including how many with TPS
12 are school-aged kids." Third bullet point,
13 "how many have been convicted of crimes of any
14 kind (any criminal/detainer stats you can
15 find)."

16 Fourth bullet point, "how many often
17 they travel back and forth to the island."
18 And fifth, "remittances data."

19 Did I read that correctly?

20 MR. CHO: The document speaks for
21 itself.

22 A That is correct.

1 MR. CHO: So you're aware, this
2 email was Exhibit 9 from the Ramos deposition.
3 Dr. Kovarik testified to it previously, but
4 I'm just pointing that out for you so you're
5 aware.

6 MS. WEBB: Sure. I'm going to ask
7 her fact witness questions about it.

8 MR. CHO: Okay. There were
9 extensive discussions at the prior deposition
10 about this specific email, but you can
11 continue.

12 BY MS. WEBB:

13 Q So, was it your idea to ask for this
14 data on TPS?

15 MR. CHO: Object to the form. To
16 the extent it calls for internal governmental
17 deliberations, the witness can answer.

18 A No, I recall receiving a request
19 from headquarters for more information on
20 these specific things.

21 Q Okay. And who at headquarters?

22 A Gene Hamilton.

1 MR. CHO: Object to the form. Go
2 ahead.

3 A Gene Hamilton.

4 Q So, in general in their duties, do
5 -- is one of -- is one of the duties of your
6 subject matter experts here on the email to
7 pull information that you request from them?

8 A Not necessarily, but I work with my
9 staff who work with staff in other offices,
10 and so instead of me reaching out to another
11 office, I asked my staff if they could compile
12 it. It may require them going to different
13 directorates, so I asked them to do it.

14 Q Okay. So do they help coordinate
15 essentially pulling information in response to
16 your request?

17 A Yes.

18 Q Okay. And do they also on occasion
19 pull TPS -- coordinate pulling TPS information
20 for you, TPS-related information for you?

21 A Yes. And at times I might -- I
22 might go to another directorate because I know

1 where it's housed. In this instance I don't
2 think I knew where the data would be so I had
3 them pull it.

4 Q Sure. Would that be sort of a
5 routine part of their job?

6 A Yes, yes.

7 Q Also in their job, do they -- would
8 they routinely help coordinate pulling
9 information to help support a TPS decision
10 memo that would go to the Director?

11 MR. CHO: Object to the form.

12 A Yes, they would help compile data.

13 Q Okay. We'll go to the next email,
14 which is the bottom of the next -- the page
15 before and top of the same page. So
16 Mr. Prelogar says that he'll "see what we can
17 dig up on these and report back by end of day
18 with as much as we can gather by then."

19 Correct?

20 A Correct.

21 MR. CHO: Object to the form. The
22 document speaks for itself.

1 A That is correct.

2 Q And he -- at the beginning of the
3 sentence, he says, "Okay, we'll connect with
4 SCOPS and OPQ." What is SCOPS?

5 A SCOPS, Service Center Operations,
6 and they -- they essentially adjudicate.
7 They're the operators. Adjudicate not only
8 TPS but also employment authorization.

9 Q Okay. What do you mean by
10 adjudicate TPS?

11 A The officers who adjudicate grant
12 benefits, deny benefits --

13 Q Okay.

14 A -- are under SCOPS.

15 Q Are they regional? Do they have
16 regional offices, or are they based in D.C.?

17 A There are five service center
18 operations within the United States.

19 Q What about OPQ, what does that refer
20 to?

21 A OPQ stands for Office of Performance
22 and Quality, which is a division within our

1 management directorate.

2 Q Okay. At the time did you -- did
3 you know what these entities were?

4 A I knew what they were, but I didn't
5 know who -- who holds what data.

6 Q Okay. Why were these the
7 appropriate entities to reach out to?

8 MR. CHO: Object to the form.

9 A My starting point is always with
10 OPQ, so that -- they run our data and
11 statistics. But a lot of times the operators
12 may have additional information housed in
13 their systems.

14 Q Okay.

15 A So these are -- SCOPS adjudicates
16 temporary protected status.

17 Q So fair to say these two divisions
18 would have data potentially about TPS
19 beneficiaries?

20 A Yes.

21 Q The next email, the same day,
22 Friday, April 7th, 2017, at 1:34 p.m. so

1 Mr. Prelogar, he says, "In short, we think
2 we'll be able to get some, but not all of this
3 info."

4 Did I read that correctly?

5 A That is correct.

6 Q So then below that, after the bullet
7 point, which I believe is copied -- does it
8 look like they just copied -- he copied your
9 bullet points and provided responses?

10 A That's what it looks like.

11 Q Okay. So in response to the first
12 one, "details on how many TPS holders are on
13 public and private relief," he says, "Not
14 available specific to TPS holders," correct?

15 A That is correct.

16 Q In response to "any demographic
17 data, including how many with TPS are
18 school-aged kids," he says, "OPQ may be able
19 to get age and geographic location," correct?

20 A Correct.

21 Q And then on the fourth bullet point,
22 "how often they travel back and forth to the

1 island," he essentially says they may have to
2 use a proxy but they'll look for more precise
3 data, correct?

4 A That's correct.

5 Q Then the last one, for "remittances
6 data," he says it "looks as though we'll be
7 able to get this generally (although not
8 specific to TPS holders)," correct?

9 A Correct.

10 Q And then the third bullet points
11 reads, "how many have been convicted of crimes
12 of any kind (any criminal/detainer stats you
13 can find)."

14 And then he responds, "Looking into
15 whether SCOPS or OPQ can pull data relating to
16 criminality. Specifically, the most promising
17 route may be something relating to the number
18 of Haitian TPS beneficiaries who had their TPS
19 withdrawn on criminal grounds."

20 Did I read that correctly?

21 A That's correct.

22 MR. CHO: Again, the document does

1 speak for itself.

2 Q And then the next email, which is a
3 couple pages back, is April 7th, 2017, 4:33
4 p.m. So that's sort of at the end of the same
5 day, correct?

6 A Uh-hmm, that's correct.

7 Q So they've been working hard.

8 So we've added Laurence Levine to
9 the email chain. And at the time, what was
10 his role?

11 A Laurence Levine or Larry Levine was
12 my senior advisor at the time.

13 Q Okay. Do you typically copy your
14 senior advisor on the sort of nuts and bolts
15 of research inquiries?

16 MR. CHO: Object to the form.

17 A I did not add him on this one.

18 Q What's that?

19 A I was not the party that added him
20 to this email.

21 Q Oh, okay. I guess the same
22 question, though, do you -- do you include him

1 on these sort of nuts and bolts research
2 projects?

3 A Yes.

4 MR. CHO: Object to form.

5 Q Okay. Okay. So, Ms. Anderson says,
6 "Information specific to TPS holders is not
7 available, but in general, TPS holders don't
8 qualify for federal benefit," but in some
9 states they can qualify for Medicaid and CHIP,
10 correct?

11 MR. CHO: I'm sorry, where are you?
12 It's a long email. Where are you looking?

13 MS. WEBB: The numeral 1 just right
14 below the first full paragraph.

15 A "TPS holders don't qualify" -- "in
16 general, don't qualify for federal benefits
17 but can qualify for Medicaid or CHIP in select
18 states."

19 Q Thank you.

20 A With conditions, it looks like.

21 Q Thank you.

22 And do you know what CHIP is?

1 A Children's Health Insurance Program.

2 Q Okay. Do you know whether it works
3 closely with the Medicaid program?

4 MR. CHO: Object to the form.

5 A Yes, I think there -- they work
6 closely together.

7 Q Okay. And so then after what you
8 read, there's a list for who can qualify,
9 correct?

10 MR. CHO: Again, the document speaks
11 for itself.

12 A That is correct.

13 Q And there's a description of
14 nonqualified immigrants or those who would not
15 qualify, correct?

16 MR. CHO: Same objection.

17 A That is correct.

18 Q Okay. Then number 2, which is just
19 kind of in the middle of the page, indicates
20 that OPQ is still looking for the demographic
21 data, including on kids, correct?

22 A Including ages, yes.

1 Q Including ages, thank you.

2 And number 3 says that they "don't
3 yet have a response" on the crime statistics
4 from SCOPS and OPQ.

5 MR. CHO: Again, the document speaks
6 for itself.

7 Q Correct?

8 A That is correct.

9 Q Ms. Anderson also notes here that
10 "the most promising route may be something
11 relating to the number of Haitian TPS
12 beneficiaries who had their TPS withdrawn on
13 criminal grounds." Is that correct?

14 A That's correct.

15 Q Okay. And, now, if they've had
16 their TPS status withdrawn, they would not be
17 affected one way or another by whether TPS was
18 extended, right?

19 MR. CHO: Object to the form.

20 A I would have to ask counsel if they
21 were eligible or not eligible. I do not know
22 off the top of my head.

1 Q Then number 4 indicates that -- it's
2 "how often they travel back and forth to the
3 island." It says, they can tell who sought to
4 travel but that the data won't reflect whether
5 they actually did travel, correct?

6 MR. CHO: Object to the form.

7 A That is correct.

8 Q Okay. And finally, number 5, which
9 is "Remittances data," it says that the
10 information isn't available for TPS holders,
11 but they do have some ideas of how to
12 extrapolate the amount of remittances from
13 general data, correct?

14 A Correct.

15 Q Then they have an analysis,
16 actually, of that below, correct?

17 MR. CHO: Object to the form. The
18 document speaks for itself, and this is not a
19 document that -- or an email that Ms. Nuebel
20 Kovarik had composed herself, but, again, the
21 document says what it says.

22 MS. WEBB: Correct.

1 A They're providing some type of
2 analysis on remittances in the email, yes.

3 Q And in that analysis they can't
4 actually tell if a particular TPS holder
5 actually sent any remittances, can they?

6 MR. CHO: Object to the form. The
7 document speaks for itself.

8 A I don't think on an individual
9 basis, but they can -- they can average it
10 out, I think is what it attempts to say. "The
11 average member of the Haitian diaspora would
12 send back approximately \$1,406 per year."

13 Q Including -- so that would include
14 all Haitians in the United States. Or how
15 would you define that term, "Haitian
16 diaspora"?

17 MR. CHO: Object to the form.

18 A I don't know how they define it
19 here.

20 Q Fair to say it includes more than
21 just Haitian TPS beneficiaries?

22 MR. CHO: Object to the form.

1 A It could involve people -- it could
2 include people who do not have TPS.

3 Q If you follow me to the very bottom
4 of the page --

5 MR. CHO: What page are you
6 referring to?

7 MS. WEBB: Same page, sorry.

8 MR. CHO: There's a 3789?

9 MS. WEBB: Yes.

10 A Okay.

11 Q "According to the Migration Policy
12 Institute, per data from the most recent U.S.
13 census, the Haitian diaspora population in the
14 United States (consisting of individuals born
15 in Haiti or reporting Haitian ancestry)
16 consisted of approximately 954,000 people."

17 Do you see that?

18 A Yes.

19 Q So then this -- their analysis is
20 calculated off of this broader Haitian
21 diaspora population. I'm not sure I'm
22 pronouncing that right. Correct?

1 MR. CHO: Object to the form.

2 A It appears so.

3 Q Okay. So in response to this
4 gathered information at 9:52 p.m. there on
5 Friday, you thank them for their work,
6 correct?

7 A That is correct.

8 Q And you say that you passed it on to
9 the Secretary's office, correct?

10 A Correct.

11 Q And at the time, who -- who was
12 that? Who were you passing it on to?

13 A I believe it's Gene Hamilton, but I
14 don't have the email to prove that.

15 Q And then you -- it looks like you
16 ask for contact information of SCOPS and OPQ.
17 Is that because, as you had mentioned earlier,
18 you still -- you didn't know exactly who to
19 reach out to within those divisions?

20 A Yeah, I wanted to know who -- who
21 did the work on what and I might need them
22 over the weekend.

1 Q Okay. So it's fair to say you're
2 working fairly late into the night on Friday
3 of your first week on a new job.

4 MR. CHO: Is that a question?

5 MS. WEBB: It is a question, yes.

6 MR. CHO: Object to the form.

7 A I work late every night of the week
8 and every Friday.

9 Q Okay.

10 MR. CHO: Hopefully not today.

11 Q And so it also looks like you may
12 be, you know, contacting some people and
13 asking them to work over the weekend.

14 Is that common or is that sort of
15 unusual in your early stages of the job?

16 MR. CHO: Object to the form.

17 A There are a lot of dedicated people
18 at the agency that work over the weekend,
19 especially when the Secretary's office needs
20 something, so I assume I was just trying to
21 make sure that I had my bases covered in case
22 I need more information.

1 Q Sure.

2 And what was the sense of urgency
3 here to get the information so fast?

4 MR. CHO: Object to the form.
5 Testify to what you know.

6 A I don't know. All I know is I work
7 to be responsive when I get a request, so I
8 ...

9 Q Okay. So then later that night,
10 10:11, Anderson -- Ms. Anderson provides you
11 with the contact information that you had
12 requested, correct?

13 A That is correct.

14 Q And then Mr. Prelogar, 12:04 a.m.,
15 he now provides some additional contact
16 information, correct?

17 A That's correct.

18 Q At the time did you have an
19 understanding of whether Ms. Anderson and
20 Mr. Prelogar would typically work sort of
21 these hours?

22 A No, I did not.

1 Q Had you communicated to them the,
2 you know, sort of why the sense of urgency for
3 these requests?

4 MR. CHO: Object to the form.

5 A I can only go by what I wrote in my
6 original message. I don't -- I don't know if
7 it's conveyed whether or not -- why the sense
8 of urgency. I just needed it by the end of
9 the day.

10 Q Okay. Let's -- another exhibit here
11 really quick.

12 MR. CHO: Also, if I didn't object,
13 I think I may have missed it, but I object on
14 the basis -- on the grounds to answer that
15 question mischaracterizes her prior testimony.

16 (Exhibit 117 was marked for
17 identification and attached to the deposition
18 transcript.)

19 MR. CHO: 117?

20 THE REPORTER: Yes.

21 MR. CHO: The government objects to
22 Exhibit 117 on the grounds that this email

1 contains internal governmental deliberations,
2 but the witness can answer questions about the
3 email.

4 A (Document review.)

5 Q Let me know when you're ready.

6 A I'm ready.

7 Q Great. My apologies.

8 Does this refresh your recollection
9 as to what prompted your initial email that
10 morning of April 7th?

11 MR. CHO: Object to the form.
12 Mischaracterizes her prior testimony. The
13 witness can answer.

14 A I don't remember this specific
15 email. I just remember Gene asking for the
16 data, so even looking at it right now, I don't
17 recall -- recall receiving it.

18 Q Okay. You remember him requesting
19 the data, you said.

20 A Yes.

21 Q Okay. So this email is dated April
22 7th, 2017, 7:58 a.m., correct?

1 A Correct.

2 Q It goes to you and others, correct?

3 A Correct.

4 Q Then your email is dated 9:19 a.m.

5 of that same day, Friday, April 7th, goes to,

6 as we discussed, Mr. Prelogar, Ms. Anderson

7 and Mr. Phillips, correct?

8 A Correct.

9 Q And if you take a look at your

10 bullet points and compare them to his bullet

11 points of the information he's requesting, do

12 they look almost identical?

13 MR. CHO: Object to the form. The

14 documents speak for themselves.

15 A Nearly identical. He had two data

16 sets in the last bullet that I broke out into

17 two different bullets.

18 Q Okay. Would you be comfortable

19 making the inference that your request to your

20 staffers was prompted by his request to you

21 and others?

22 MR. CHO: Object to the form.

1 Mischaracterizes her prior testimony. The
2 documents do speak for themselves. Testify to
3 what you know.

4 A I remember getting a request from
5 Gene Hamilton. And looking at the email now,
6 it looks like I sent a request for data based
7 on a request from Gene.

8 Q Okay. So let's go back to -- to
9 your email, back to where we were. Yes, back
10 to 116.

11 Okay. So really late on Friday
12 night at 12:04 a.m. --

13 MR. CHO: Do you want to direct us
14 to a specific page number?

15 MS. WEBB: Yes. Hold on. My page
16 numbers are cut off here.

17 A 787.

18 Q Yes.

19 Okay. So he had -- he had provided
20 you some additional contact info at 12:04 a.m.
21 on Saturday. And the next email, Monday,
22 April 10th, 2017, 9:31 a.m. -- let me just ask

1 you who these new people are who added to the
2 chain. So we have Alexander King. Do you
3 know who he --

4 A He works in Service Center
5 Operations.

6 Q Did he at the time?

7 A Yes.

8 Q What about Nicole Frenchik-Putnam?

9 A I don't know that person.

10 Q Okay.

11 A But it appears from a previous email
12 that she works at OPQ.

13 Q What about Michael Hoefer?

14 A Hoefer is the head of the OPQ
15 division.

16 Q And then Victoria Porto?

17 A I believe Victoria at the time was
18 his deputy, Michael's deputy.

19 Q What about Catherine Chiang?

20 A I do not know Catherine Chiang.

21 Q And are these people also generally
22 sort of subject matter experts?

1 A I'll just note for the record that I
2 also do not know David Lee, who is also on the
3 cc line.

4 Q Yes, thank you.

5 A I can only speak to my staff,
6 subject matter experts Mr. Prelogar,
7 Ms. Anderson, Mr. Phillips.

8 I don't know about the rest of them.

9 Q Okay. Okay. So shortly thereafter,
10 April 10, 2017, 9:38 a.m., Ms. Chiang says
11 that they've already sent the TPS information
12 that OPQ is able to provide, correct?

13 A That is correct.

14 Q At the time did you have any
15 understanding of whether the OPQ people had
16 worked on this over the weekend?

17 MR. CHO: Object to the form.

18 A I don't know if they did or not.

19 Q Okay. And then moving up the chain
20 to the page before on April 10, 2017, 9:44
21 a.m., Alexander King, who you said was from
22 Service Center Ops.

1 A That's correct.

2 Q So he says that there -- "the SFO
3 SCOPS and the SCOPS TPS portfolio managers are
4 currently researching whether we can
5 electronically pull data pertaining to TPS
6 criminality," correct?

7 A Correct.

8 Q But then he says he's not sure what,
9 if any, data they'll actually be able to
10 provide, correct?

11 A That's correct.

12 Q He says, we'll do our best, correct?

13 A Correct.

14 MR. CHO: Again, the document does
15 speak for itself. You are paraphrasing, just
16 for the record.

17 BY MS. WEBB:

18 Q He says, "But we'll do our best."

19 Okay. And then you respond at 9:52
20 a.m. and you say, "As soon as you can would be
21 great," correct?

22 MR. CHO: Again, object to form.

1 The document does speak for itself.

2 A That is not correct.

3 Q You say, "Thanks, Alex as soon as
4 you can, that would be" --

5 A That is not my email.

6 Q I'm sorry, you're right. You're
7 right. My apologies.

8 So Larry Levine responds, "Thanks,
9 Alex - as soon as you can would be great."
10 Correct?

11 A Correct.

12 Q And were you aware at the time --
13 had you informed Mr. Levine at the time that
14 there was a sense of urgency for this?

15 MR. CHO: Object to the form.
16 Mischaracterizes her prior testimony. That's
17 not a word that she had used previously, but
18 the witness can answer.

19 A I don't recall what I told
20 Mr. Levine about this request.

21 Q So on the next email, April 10,
22 2017, 11:04 a.m. when Catherine Chiang says,

1 "We updated column names and table headers to
2 differentiate between information relating to
3 petitioners versus beneficiaries," did you
4 understand beneficiaries to be a reference to
5 TPS beneficiaries?

6 A I don't know if I knew it at the
7 time. I'm still trying to make heads or tails
8 of what petitioners and beneficiaries are
9 based on this email.

10 Q Okay. Okay. So in the email
11 immediately above, this is the same day at
12 1:29 p.m., you have "Another question and
13 quick turnaround request (for D1 before his
14 3:00 meeting)." So I guess that was a
15 90-minute turnaround time, correct?

16 MR. CHO: Object to the form.

17 A Correct.

18 Q And D1 at the time, who was that in
19 April of 2017?

20 A I believe it was -- you know, I
21 don't know if it was Laura Shalava (phonetic)
22 or Mr. McCament, but it says his 3:00 meeting.

1 Q Right. So it was likely Director
2 James McCament, correct?

3 MR. CHO: Object to the form.

4 A It's very possible it's
5 Mr. McCament, and he was Acting Director at
6 the time. I don't know.

7 Q Okay. So when you ask -- you say,
8 "For each question asked, can we summarize for
9 Mr. McCament whether we track the data or
10 whether we can track if asked by the
11 Secretary," by data you mean -- essentially
12 the information in the bullet points directly
13 below that, correct?

14 A Right.

15 Q And are you asking whether the data
16 is currently tracked or could be tracked if he
17 asked for it to be tracked?

18 MR. CHO: Object to the form.

19 A Whether we could track the data or
20 whether we can track if asked. Whether we do
21 track it currently or whether we could in the
22 future, essentially.

1 Q And you say, "I started something in
2 red, but could use some help."

3 I don't think we got color versions
4 of these documents, but does it look like
5 after the dashes you added some -- a start for
6 some of these bullet points?

7 A That appears to be correct.

8 Q But not for the bullet point "how
9 many have been convicted of crimes of any
10 kind"?

11 A That is correct.

12 Q Then Ms. Anderson responds at 1:49
13 p.m. that your summaries look correct, right?

14 MR. CHO: Object to the form.

15 Q Excuse me, that it "looks like that
16 correctly sums up what we know currently" --

17 A That is correct.

18 Q -- did I read that right?

19 And then in the next email, April
20 10, 2017, 1:58 p.m., this is from Nicole
21 Frenchik-Putnam.

22 MR. CHO: I believe it's

1 Putnam-Frenchik.

2 MS. WEBB: Oh, I'm sorry, Nicole

3 Putnam-Frenchik.

4 Q You testified she was from OPQ,
5 correct?

6 A Yes.

7 Q She writes, "Currently OPQ PAER does
8 not have access to the system that may include
9 criminal history so we are unable to speak to
10 how it may be captured." Correct?

11 A Correct.

12 Q What is PAER?

13 A I do not know.

14 Q Do you have any understanding of
15 what sort of system she's referring to?

16 A No. We have a lot of systems.

17 Q April 10th, same day, 2:42 p.m.,
18 Alexander King responds. He says, "As of now,
19 I've been unable to verify whether we can
20 systemically pull electronic criminality data
21 (IDENT fingerprint records), by type of
22 immigration benefit request, country

1 citizenship/country of birth or other
2 biographical information besides an
3 individual's A-number or name and date of
4 birth." Correct?

5 A Correct.

6 Q And what -- do you know what IDENT
7 is -- stands for?

8 A I don't know what it stands for.

9 Q Do you mean what IDENT fingerprint
10 records are?

11 A Not specifically.

12 Q Do you know anything about them?

13 MR. CHO: Object to the form.

14 A I don't know if IDENT is a publicly
15 known database, but IDENT normally provides
16 criminal history or fingerprint records. I
17 don't know who maintains it.

18 Q Okay. So you don't know whether
19 it's USCIS's database?

20 A I don't.

21 Q Do you know whether USCIS keeps
22 track of fingerprints of people with

1 immigration status in the United States?

2 A I don't know.

3 Q Okay. Moving along.

4 Well, one more thing here. So

5 Mr. King goes on to say after that paragraph

6 that I just read, "I know the fingerprint

7 records are stored in an electronic system,

8 but I believe it's a person centric record

9 only tied to the individual's basic

10 biographical information. In other words, I

11 don't believe the fingerprint records contain

12 the other pieces of information we're

13 interested in (i.e., aliens with criminal

14 records who are also TPS beneficiaries from

15 Haiti)."

16 Did I read that right?

17 MR. CHO: Again, the document speaks

18 for itself. The witness can answer.

19 A I didn't follow along, but I think

20 you read it correctly.

21 Q Okay. So this is -- we're

22 essentially three and a half minutes before

1 the 3:00 deadline that you had mentioned. And
2 it looks like we still don't have data yet on
3 TPS criminality, correct?

4 MR. CHO: Object to the form.

5 A On criminality?

6 Q Yes, on criminality.

7 A It does not appear that we have
8 criminal data.

9 Q Okay. At the time, were you
10 surprised that no one could find the
11 criminality information?

12 MR. CHO: Object to the form. She's
13 here as a fact witness. You can testify if
14 you can.

15 A I don't recall my reaction. I'm
16 always surprised that the agency lacks data in
17 certain instances, so I wouldn't be surprised,
18 but I don't recall my reaction to this.

19 Q Do you recall that 3 p.m. meeting
20 that day that you referred to in your --

21 A No.

22 Q Sorry?

1 A No, I don't.

2 Q Okay. So the next email is from
3 you, but now we're fast forward to April 25th,
4 2017, two weeks later, and you say you're back
5 -- "I'm back again with a request for data on
6 Haitians with TPS." Correct?

7 A That is correct.

8 MR. CHO: Same objection.

9 Q And these are three new requests,
10 correct? Below you have the three bullet
11 points.

12 MR. CHO: Object. The document
13 speaks for itself. The witness can answer.

14 A They appear to be three different
15 requests, or somewhat different.

16 Q Okay. And was it your idea to
17 request these categories of information?

18 MR. CHO: Object to the form to the
19 extent it seeks information leading to
20 internal governmental deliberations, but the
21 witness can answer.

22 A I don't know why I made the request.

1 Q All right. You don't remember who
2 -- who was requesting it?

3 MR. CHO: Object to the form. Asked
4 and answered.

5 A No.

6 Q Do you recall having any
7 understanding of why the -- why you were
8 requesting the data?

9 MR. CHO: Object to the form and to
10 the extent it seeks information leading to
11 internal governmental deliberations, but the
12 witness can answer.

13 A I do not -- I do not recall.

14 Q So in bullet point 2, when it says,
15 "Since designation, how many have committed
16 crimes?" Does "designation" mean TPS
17 designation there?

18 A I believe so.

19 Q So you wanted essentially all --
20 well -- all criminal data on Haiti TPS holders
21 since 2010, correct?

22 MR. CHO: Object to the form.

1 A I think your question is misleading.

2 I would ask you to re-ask it. You said all
3 criminal data? I don't think I asked for all
4 criminal data.

5 Q Sure, sure.

6 You asked how many TPS holders have
7 committed crimes since 2010, correct?

8 MR. CHO: Object to the form. The
9 document speaks for itself, and that's not
10 what the document says.

11 A That's not what the document says.

12 Q Well, since designation.

13 A Since designation.

14 Q Do you know when that was?

15 A No, I don't know.

16 Q Do you know when Haiti was given its
17 initial TPS designation?

18 A I know its initial designation was
19 in 2010, but I do not know what other
20 designations have been made, so this could
21 have been for any extent.

22 Q Do you know whether it was

1 redesignated in 2011?

2 A I don't recall.

3 Q Generally what's your understanding
4 of the process by which a person from a
5 country designated for TPS can themselves
6 apply for TPS status?

7 MR. CHO: Object to the form. Are
8 you referring to Haiti or something else?

9 MS. WEBB: Just TPS generally, just
10 the process.

11 MR. CHO: Object. Object to the
12 form.

13 A My understanding is, after a
14 designation is made, there are instructions in
15 the Federal Register Notice for individuals
16 who want to register, and there's a
17 registration process.

18 Q Okay. Do you have any understanding
19 of how long the registration process would
20 take?

21 A I do not.

22 Q Do you know whether there would be

1 any gap in time between a TPS designation for
2 a country and when an individual is granted
3 individual TPS beneficiary status?

4 MR. CHO: Object to the form.

5 A I do not know.

6 Q So your request here by asking for
7 information on how many have committed crimes
8 since designation would potentially capture
9 criminal activity before an individual
10 themselves had registered for TPS beneficiary
11 status, correct?

12 A I don't think that's true.

13 MR. CHO: Object to the form. Go
14 ahead.

15 A I don't think that's true. I don't
16 know if that's accurate.

17 Q Okay. Because you don't know how
18 long the registration process takes?

19 A Or if there is actually a lull
20 between designation and obtaining status.

21 Q Okay.

22 A I think that's what you're asking.

1 Q Yes, yes.

2 But you did say that individuals do
3 have to register pursuant to instructions in
4 the Federal National Register, correct?

5 A Correct.

6 Q It's not instantaneous that once a
7 country's designated all individuals receive
8 status in that instant, correct?

9 MR. CHO: Object to the form.

10 Q Or do you know?

11 A I don't think that they do, but I
12 don't know -- I just don't know if there's a
13 lull between whether or not they're considered
14 to have had TPS since the designation. I do
15 not know.

16 Q Okay. And so after that -- after
17 that bullet point, "Since designation, how
18 many have committed crimes?" You write, "We
19 previously asked but data is difficult to
20 obtain? What can we say here? How can it be
21 obtained if not already?"

22 So did you have a sense at the time

1 that this was difficult data to get?

2 MR. CHO: Object to the form. The
3 document speaks for itself. The witness can
4 answer.

5 A It appears from the previous email
6 chains that criminal data is difficult to
7 obtain.

8 Q Okay. And when you write, "What can
9 we say here?" who is ultimately getting this
10 information?

11 A I do not know.

12 Q Who would you need to say something
13 about this to?

14 A I don't know who specifically it was
15 for.

16 Q So you testified earlier that you
17 recall Gene Hamilton asking you for the
18 original data that you had asked for in your
19 April 7, 2017, 9:19 email, correct?

20 MR. CHO: Object to the form.
21 Mischaracterizes the prior testimony. The
22 witness can answer.

1 A Correct.

2 Q Do you recall whether he also asked
3 for this information?

4 MR. CHO: Object to the form.

5 A I can't say with certainty, no. I
6 do not know who asked for this information.

7 Q Okay. So, in the third bullet
8 point, you write, "Since designation, how many
9 are on public assistance? Out of work?"
10 Correct?

11 A Correct.

12 Q So if we compare that back to your
13 original April 7th, 2017, 9:19 a.m. request,
14 there you had asked for "details on how many
15 TPS holders are on public and private relief,"
16 correct?

17 MR. CHO: Object to the form. The
18 document speaks for itself.

19 A That's what I asked, yes.

20 Q So now you've broadened this request
21 here, correct, by adding "out of work" in
22 addition to public assistance, correct?

1 MR. CHO: Object to the form. The
2 document speaks for itself.

3 A That is correct.

4 Q So the next email at 1:43 p.m. of
5 April 25th, Ms. Anderson responds to you and
6 there are some -- I just want to ask you about
7 some additional people on the email chain.
8 Some of them were added a few emails ago, but
9 do you know who Guillermo Roman-Riefkohl is?

10 A I do not.

11 Q What about Scott Massey?

12 A I do not.

13 Q Ronnie Thomas?

14 A I know of Ronnie Thomas.

15 Q Okay. And who he is?

16 A He works for Senator -- Service
17 Center Operations.

18 Q What about April Padilla?

19 A I don't know, but reading the next
20 email, I know that she works for Security and
21 Fraud Office and Service Center Operations.

22 Q And then Bret Woerz?

1 A I do not know.

2 Q Carl Risch?

3 A Carl Risch was, I believe, Acting
4 Chief of Staff at the time.

5 Q For the Director?

6 A For the Acting Director or the
7 Director.

8 Q Okay. So Ms. Anderson writes -- I
9 have a hole punch through the very first word,
10 but "we'll work to compile a group response,
11 but would appreciate your input to help us
12 solidify the responses to the three questions.
13 We've put forward a starting point in red
14 below. Could you please read the responses
15 and weigh in with any information that your
16 respective offices may have (data or an
17 explanation of why the requested data isn't
18 available) by 2:30 today? Thanks!" Correct?

19 MR. CHO: So, the first word is
20 "all."

21 MS. WEBB: "All," right. Thank you.

22 MR. CHO: It was punched out.

1 A That is correct.

2 Q So that's 47 minutes from 1:43,
3 correct, something like that?

4 A The email is at 1:43.

5 Q So I'm just trying to understand the
6 sort of sense of urgency here. Do you have an
7 understanding of why such a short turnaround
8 time?

9 MR. CHO: Object to the form.
10 Testify to what you know.

11 A I know by looking at the email at
12 12:13 that I sent, I did not reference a time
13 by which I needed the information.

14 Q Okay.

15 A So I'm not sure if there was a sense
16 of urgency or not.

17 Q Okay.

18 A I will note that the sense of
19 urgency on the first chain appears to be for a
20 briefing, and that's it.

21 Q Okay. Where are you looking?

22 A On the first email, the first April

1 -- April 7th.

2 Q Is that your 9:19 email or a later
3 email?

4 A I'm just saying that there appears
5 to be -- I put a deadline on my first email on
6 Friday, April 7th, at 9:19 a.m. I did not put
7 a time frame on the 12:13 email from April
8 27th.

9 Q Okay. Did you recall that this was
10 for a briefing more generally?

11 A No, I'm just making the leap or the
12 assumption based off of the other emails you
13 showed me.

14 Q Based on Gene Hamilton's email?

15 A Yes.

16 MS. WEBB: Let's take a break.

17 We're almost done with this email chain.

18 THE VIDEOGRAPHER: Going off the
19 record at 11:53.

20 (A brief recess was taken.)

21 THE VIDEOGRAPHER: We are back on
22 the record at 12:03.

1 BY MS. WEBB:

2 Q So just going back -- back to your
3 April 25th -- excuse me, back to
4 Ms. Anderson's April 25th, 2017, 1:43 p.m.
5 email that we had just been speaking about.
6 So she has -- she's taken your bullet points
7 and filled in some additional information,
8 correct?

9 MR. CHO: Object to the form. The
10 document speaks for itself. The witness can
11 answer.

12 A It appears so. She said she did.

13 Q Okay. So in response to number 1,
14 it says, "The TPS statute does not require
15 individuals to have lawful status in order to
16 qualify for TPS."

17 My question is, were you at the time
18 aware of that? Do you recall?

19 A I don't recall.

20 Q Do you recall whether you considered
21 withdrawing your request for this data because
22 it wasn't relevant under the TPS statute?

1 MR. CHO: Object to the form. Calls
2 for a legal conclusion. The witness can
3 answer.

4 A I don't think I recall pulling the
5 question, no.

6 Q So she goes -- Ms. Anderson goes on
7 to explain that the data is self-reported and
8 says that, it looks like the fourth sentence
9 there, "Additionally not all applicants
10 provide this information on the form in a
11 standard or recordable fashion," correct?

12 A Correct.

13 Q And then she -- then she writes that
14 "The 2016 annual TPS report to Congress shows
15 that 80 of the 58,706 Haitian TPS
16 beneficiaries have their status reported in
17 USCIS systems as 'without inspection,'" correct?

19 A Correct.

20 Q Did you at the time understand
21 "without inspection" meant?

22 A Most likely "without inspection"

1 means entered without inspection, without
2 being inspected by an officer.

3 Q Okay. What does that mean, just
4 generally?

5 MR. CHO: Object to the form.

6 A Without inspection can mean that
7 somebody entered through a land port or other
8 and did not go to a port of entry or to an
9 officer and they entered illegally.

10 Q Entered illegally, okay.

11 When she writes, "However, we note
12 that the same report shows that 48,597 of the
13 58,706 Haitian TPS beneficiaries had their
14 status reported in USCIS systems as unknown,"
15 do you have an understanding of why they would
16 appear in the data as unknown?

17 A It would appear in the system as
18 unknown because they -- it's self-reported as
19 stated above, so it's possible that people do
20 not self-report their status when they're
21 applying.

22 Q Okay.

1 And the TPS statute doesn't require
2 them to report their status when they apply,
3 correct?

4 MR. CHO: Object to the form. Calls
5 for a legal conclusion. The witness can
6 answer.

7 A I don't know what the statute
8 requires or what the regulatory scheme
9 requires.

10 Q Do you know whether TPS beneficiary
11 -- I mean -- well, do you know whether persons
12 who are in the U.S. illegally can receive the
13 benefit of TPS status --

14 MR. CHO: Object to the form. Calls
15 --

16 Q -- or do they have to be legal,
17 legal here?

18 MR. CHO: Object to the form. Calls
19 for a legal conclusion. The witness can
20 answer.

21 A The statute, according to
22 Ms. Anderson, does not require individuals to

1 have lawful status. I am aware of that.

2 Q Okay. So when the status is being
3 reported on the USCIS systems as unknown, is
4 that -- at that time is that when the TPS
5 beneficiary to be is applying, is sort of
6 registering?

7 A That is my assumption, that when
8 they're -- when they're registering or
9 applying, they're asked that question and some
10 may attest, some may not know, some may not
11 know what to put down for that.

12 Q Okay. Okay. But so, I guess, in
13 spite of the fact that the statute does not
14 require individuals to have lawful status in
15 order to qualify for TPS, you were still
16 asking for their status predetermination,
17 correct?

18 MR. CHO: Object to the form.
19 Argumentative. The witness can answer.

20 A I don't know if the TPS statute
21 precludes us from asking that question, and it
22 should be noted that questions on forms go

1 through notice incumbent and rulemaking.

2 Q All right. So do you know whether
3 someone who had been in the U.S. illegally for
4 some time could qualify as a TPS beneficiary?

5 MR. CHO: Object to the form. Calls
6 for a legal conclusion. The witness is not
7 here as a 30(b)(6) witness as you noted
8 earlier, but she can answer.

9 Q Just in your experience.

10 A That's my understanding, but I would
11 need counsel to confirm. It's my
12 understanding.

13 Q Did you understand your request at
14 the time, how many current Haitian TPS folks
15 were illegal pre-TPS designation, to
16 potentially pull in status, you know, illegal
17 status from individuals from, you know -- well
18 before the Haiti TPS designation potentially?

19 MR. CHO: Object to the form.
20 Vague. Calls for a legal conclusion. The
21 witness can answer if she can.

22 A I think the question is really

1 pointed to know what status people had before
2 they were granted TPS status, so how many were
3 illegal or unlawfully present prior to the
4 designation.

5 Q Okay. Did you understand that to be
6 sort of immediately prior to the designation
7 or from a broader time period?

8 MR. CHO: Object to the form.

9 A I would assume it's immediately
10 prior. I don't know exactly, again, where the
11 question came from, but I believe we were just
12 seeking information on certain statuses of
13 those who held TPS.

14 Q At the time that they registered?

15 A Yes.

16 Q So, would you agree that someone's
17 legal or illegal status at the time of TPS
18 designation would not necessarily reflect the
19 person's current immigration status?

20 MR. CHO: Object to the form. Calls
21 for a legal conclusion. The witness can
22 answer if she can.

1 A It does not matter what the status
2 of the individual is prior to registration, I
3 don't believe, but if TPS were to be
4 terminated, for example, they would revert
5 back to that status.

6 Q All right. I think my question was
7 unclear. Sorry about that. I'll try again.

8 A Okay.

9 Q So someone who received a TPS
10 beneficiary status could subsequently attain a
11 different immigration status, such as a green
12 card or even citizenship, correct?

13 A That's correct, yes.

14 Q So, in other words, the sort of
15 snapshot at designation would not necessarily
16 -- snapshot of status of designation would not
17 necessarily reflect the person's current
18 immigration status, correct?

19 MR. CHO: Object to the form.

20 A It may or may not.

21 Q So did you -- at the time, did you
22 believe that this snapshot of status at the

1 time of TPS designation was relevant to a
2 decision to extend, renew, redesignate TPS?

3 MR. CHO: Object to the form. Calls
4 for a legal conclusion. Also to the extent it
5 seeks information leading to internal
6 governmental deliberations, the witness can
7 answer if she can.

8 A I don't think there's anything in my
9 email that suggests that this was being
10 considered as part of the decision. I simply
11 asked for data. I don't know why I asked for
12 the data.

13 Q Okay. So, I want to refer you back
14 to one answer you gave in Ramos just to see if
15 it refreshes your recollection about this.

16 MR. CHO: I do want to object. She
17 did not say a specific document would
18 necessarily refresh her recollection as to
19 something that she had testified to.

20 MS. WEBB: It's just on the same
21 subject so I just want to --

22 MR. CHO: Well, if it's the same

1 subject, it's already been covered in Ramos,
2 which we discussed earlier.

3 MS. WEBB: She has a different
4 answer so I would like to show it to her.

5 MR. CHO: Well, that's fine, but,
6 again, we're not here to go over things that
7 have already been addressed in Ramos.

8 MS. WEBB: I appreciate that. We're
9 not going to spend a lot of time on this now
10 or in general today.

11 Okay. This is Exhibit 118.

12 (Exhibit 118 was marked for
13 identification and attached to the deposition
14 transcript.)

15 BY MS. WEBB:

16 Q Okay. Does this look familiar?

17 A No.

18 Q Do you understand that this was your
19 testimony that you gave in the case Ramos
20 versus Nielsen, number 18-cv-1554 back in
21 August of this year? Take your time if you
22 need to.

1 A That's what it says.

2 MR. CHO: Yes. Objection. She says
3 she doesn't recognize this. Do you want her
4 to sit here and read the whole transcript?

5 MS. WEBB: No, I don't.

6 MR. CHO: Do you want to point her
7 to a specific page that you're referring to?

8 MS. WEBB: Yes, absolutely I will do
9 that. I just want to make sure that she's
10 comfortable that this is her testimony.

11 MR. CHO: Why don't you ask her the
12 question and she can answer.

13 BY MS. WEBB:

14 Q So if you would just go to page 191
15 for me. You can just read the testimony and
16 see if you recall.

17 MR. CHO: What line?

18 MS. WEBB: She should probably read
19 the whole page just for context starting at
20 one.

21 A (Document review.)

22 Okay.

1 Q Do you recall that exchange at all?

2 A Vaguely.

3 Q Okay. I just -- really it's just to
4 see whether you -- whether your recollection
5 is refreshed. So if you go with me to --

6 MR. CHO: Well, she never testified
7 that her recollection needs to be refreshed,
8 and page 191 refers to an April 7th email.
9 The email you've been inquiring right now is
10 relating to the email from, I believe, April
11 25th, so these are different emails.

12 MS. WEBB: I'm inquiring about the
13 whole email chain.

14 MR. CHO: Okay. But on page 191,
15 that's referring to an April 7th email, not an
16 April 25th email.

17 MS. WEBB: Okay. The email chain
18 starts on April 7th.

19 MR. CHO: Right, but at the
20 deposition in Ramos on 191, there was no April
21 25th email.

22

1 BY MS. WEBB:

2 Q So my question to you, you mentioned
3 that you just didn't recall what this data was
4 going to, why it was being requested.

5 MR. CHO: No, she was very specific
6 about what she's referring to, and that was
7 what was in the April 25th email. I mean, the
8 record shows that.

9 MS. WEBB: Okay. Let me ask her my
10 full question and then you can see if you have
11 an objection. I think you probably won't.

12 BY MS. WEBB:

13 Q So you didn't testify that you
14 didn't recall what the data was being used
15 for.

16 Here it mentions that it was to
17 better understand temporary protected status.
18 Would that also apply to your April 25th --
19 your additional inquiries that you propounded
20 to your staff?

21 MR. CHO: Object to the form.

22 Q If you don't remember, that's fine.

1 A I can't recall. I -- as he noted, I
2 don't think the April 25th email was part of
3 this conversation, so I'm referring only to
4 the April 7th email, it appears.

5 Q Okay. So then on April 25, with
6 respect to the information you're requesting,
7 you don't know sitting here today whether you
8 were requesting it to determine whether TPS
9 for Haiti should be terminated or continued,
10 correct --

11 A I don't know.

12 Q -- is that right?

13 MR. CHO: Object to the form.

14 Q Okay. So, Ms. Anderson, at the very
15 end of bullet point 1 in the April 25th, 2:53
16 p.m. writes --

17 A Just a second.

18 Q Sure, sure.

19 A So 2:53 email from Ms. Anderson.

20 Q Yes.

21 A Okay.

22 Q So the end of bullet point 1, which

1 we were -- we had discussed a little bit.

2 So at the very end of it she writes,
3 "Given the large number of individuals with
4 unknown status, 80 is not a reliable estimate
5 of the number of Haitian beneficiaries who had
6 no lawful status at the time of applying for
7 TPS."

8 So based on her analysis in the
9 bullet point, did you agree with her -- her
10 assessment there?

11 MR. CHO: Object to the form. The
12 document speaks for itself. Again, she's a
13 fact witness. Also, the question seeks
14 information leading to internal governmental
15 deliberations, but the witness can answer.

16 A She states, "Not all applicants
17 provide this information on the form in a
18 standard or recordable fashion," so it doesn't
19 seem to be reliable data. So when she says
20 that "80 is not a reliable estimate of the
21 number of Haitian beneficiaries who had no
22 lawful status at the time," it is likely not

1 reliable.

2 Q So if you just take a look at her
3 additional responses to your questions --
4 we've been over bullet point 1, but to look at
5 bullet point 2 and bullet point 3, is it fair
6 to say that at this time there's still no
7 reliable data that would answer your
8 questions?

9 MR. CHO: Object to the form. The
10 document speaks for itself. Compound
11 question. The witness can answer if you're
12 able to.

13 A It appears from that answer that it
14 may be achievable, but in paper files you
15 would have to manually --

16 Q You would have to? Sorry.

17 A You would have to manually review.
18 It's not -- it doesn't seem to be tracked or
19 collected or tracked, but it may be available
20 in paper forms or various, unconnected USCIS
21 systems.

22 Q Okay. And which -- which of the

1 bullet point are you referring to here?

2 A So number 2.

3 Q Uh-hmm.

4 A On criminal data.

5 Q Uh-hmm.

6 A It's not available, it says, in the
7 USCIS systems. However, it seems to be
8 available if you were to review paper files or
9 other various, unconnected USCIS systems.

10 Q Which -- which email are you looking
11 at? I just don't think I'm on the same one
12 with you.

13 MR. CHO: Page 3782.

14 A After the bold capital sentence
15 "Information regarding whether TPS
16 beneficiaries have committed crimes is not
17 currently available through USCIS systems."

18 Do you see that sentence? This is
19 page --

20 Q Yes, yes, yes. Okay.

21 Got it. Okay. Thank you.

22 And then what about for the third

1 bullet point?

2 MR. CHO: I'm sorry, what's the
3 question?

4 MS. WEBB: I'm getting to it.

5 BY MS. WEBB:

6 Q For the third bullet point, at that
7 time, was there any data in answer to your
8 question?

9 MR. CHO: Object to the form.

10 A It does not say whether or not the
11 data is available. It just says it's --
12 there's no way our agency or our department to
13 determine whether they're on public assistance
14 or out of work, so no data was provided.

15 Q Okay. So then going up to the 2:53
16 email from Ms. Anderson that we were talking
17 about earlier, so at that time, because I know
18 here you're looking for data, essentially, to,
19 you know, take to someone.

20 MR. CHO: Object to the form.

21 Q At that -- by the time of that
22 email, was there any new, reliable data in

1 answer to your questions?

2 MR. CHO: Object to the form. The
3 document speaks for itself as well as her
4 prior testimony in the past hour. The witness
5 can answer if she can.

6 A I don't see any new data. I don't
7 know.

8 Q Okay. And then shortly after that
9 email, Michael Hoefer -- I think you said it
10 was?

11 A Yes.

12 Q -- responds. He's the chief of OPQ,
13 correct?

14 A That's correct.

15 Q He says he concurs with the
16 information at that time. Correct?

17 A Correct.

18 Q Okay. And then two days later --
19 actually I just want to just check there real
20 quick.

21 Two days later, April 27, 2017,
22 10:08 a.m., you respond to the same group of

1 individuals. You say, "All, thanks so much
2 for your help on these data requests. I do
3 want to alert you, however, that the Secretary
4 is going to be sending a request to us to be
5 more responsive. I know that some of it is
6 not captured, but we'll have to figure out a
7 way to squeeze more data out of our systems,
8 so we may as well get started. Thanks again!"

9 Did I read that correctly?

10 MR. CHO: The document speaks for
11 itself.

12 A Yes.

13 Q Do you recall what prompted you to
14 send that email the two days later?

15 MR. CHO: Object to the form.

16 A No.

17 Q So you say that the team here will
18 have to figure out a way to squeeze more data
19 out of our systems. At the time did you
20 believe that these individuals sort of had
21 other resources that they weren't providing to
22 you?

1 MR. CHO: Object to the form.

2 A It's possible that there are other
3 ways of getting this data. Again, like I
4 said, not all of it is captured, but there are
5 -- there may be other ways of retrieving the
6 data.

7 Q Okay. By "capture," what do you
8 mean?

9 A So when, for example, somebody
10 applies for something and they're asked a
11 series of questions, they may provide that to
12 us and we collect it, but does the electronic
13 system capture it or track it electronically.
14 We have that problem throughout all of our
15 systems. So a lot of times it's captured --
16 and I think I misspoke here. A lot of it is
17 -- I may have misspoke. I don't know. Some
18 of it is not captured. We don't take it in.
19 We don't --

20 Q Record it.

21 A -- record it, but we do collect it.

22 Q Okay. How would that occur? How

1 would that occur?

2 MR. CHO: Objection to the form.

3 Q How would that work?

4 A We would collect it manually in a
5 paper, in a petition or application.

6 Q Okay. Would those be considered
7 records, though, even if they're not all
8 electronic?

9 MR. CHO: Object to the form.

10 A I don't know the terminology. It
11 could be a record.

12 Q So when you say "squeeze more data
13 out of our systems," what did you mean by
14 that?

15 A It's probably not an eloquent use of
16 what I was trying to say, and that is, when we
17 need data, we need to be able to provide it or
18 find a way to do it, and it may not be
19 overnight, but it may be a long-term project.
20 So it may require form updates. It may
21 require electronic system updates. But in
22 order to be more responsive and to understand

1 the population, we would have to figure out
2 ways to capture the data.

3 Q Capture the data going forward?

4 MR. CHO: Object to the form.

5 A Potentially.

6 Q Okay. So with respect to what data
7 you had available to you at the time, isn't it
8 true that your staff, you know, they had been
9 working all this time and they're not -- you
10 know, they've essentially told you here they
11 can't provide any more data. There's no more
12 data on your request, with a couple of
13 exceptions.

14 MR. CHO: Object to the form. The
15 document speaks for itself. Argumentative.
16 The witness can answer.

17 A I'm not certain that all the data
18 sets from this email or the previous email are
19 just not able to be collected. I can't say
20 that with certainty for all of these.

21 Q Okay. So just to sort of recap
22 because we're now almost done with this long

1 chain. So you had initially asked for some
2 data on the morning of April 7, 2017, correct?

3 MR. CHO: Objection. Asked and
4 answered.

5 A Correct.

6 Q And now here it's the afternoon of
7 April 27th, correct?

8 MR. CHO: Objection. Asked and
9 answered. We've already gone over that email.

10 A Correct.

11 Q So do you recall -- you've been
12 trying to get the data for three weeks now.
13 Do you recall what generally you wanted to do
14 with this data?

15 MR. CHO: Objection. Argumentative.
16 Object to the form. Asked and answered. The
17 witness can answer again.

18 A I do not.

19 (Exhibit 119 was marked for
20 identification and attached to the deposition
21 transcript.)

22 MR. CHO: What number is this?

1 THE REPORTER: 119.

2 MR. CHO: 18 or 19?

3 MR. PIPOLY: 19.

4 What's the Bates on that again?

5 MR. CHO: DPP_3115.

6 The government objects to Exhibit
7 119 on the grounds that it contains
8 deliberative information, but the witness can
9 answer questions about this exhibit.

10 A (Document review.)

11 Okay.

12 Q So this email, the first email in
13 the chain is from Aisha Barnes, and it says,
14 "On behalf of USCIS Exec Sec." What is that?

15 A So the exec or Executive Secretary,
16 not only does the department have one, but
17 most components have an executive secretary
18 and they -- that's where you funnel your
19 papers, memos, any request or review for
20 materials.

21 Q Okay. What kind of materials?

22 A It could be a briefing memo. It

1 could be talking points. It could be -- it
2 could be regulations, anything that would need
3 clearance from various people in the agency.

4 Q Okay. What about a decision memo on
5 TPS determination?

6 A It could be used for that.

7 Q And then we have some new people
8 that I was going to ask you about. So, Maria
9 Button, do you know who she is?

10 A Maria Button, she works for the
11 Executive Secretary -- Exec Sec.

12 Q And Constance Carter?

13 A Exec Sec.

14 Q And then Carl Risch is the --

15 A Acting Chief of Staff.

16 Q Acting Chief of Staff.

17 And Josie Graziadio?

18 A At the time she worked in my office
19 and she operated our clearance box. So she
20 would receive materials from the Executive
21 Secretary.

22 Q Okay. What is the clearance box?

1 A So the policy clearance box is where
2 -- so it flows from the Executive Secretary to
3 a clearance box, and then somebody mans that
4 box to distribute it to subject matter
5 experts. So rather than Exec Sec trying to
6 figure out who the expert is, who to send it
7 to, they send it to one person in each
8 directorate.

9 Q Okay. Then once they receive it,
10 what the subject matter experts do, and that's
11 the end of the process?

12 A Yes, usually there's information
13 about what is needed, a deadline. And then it
14 would go through a review in that directorate
15 and then go back up to the Executive
16 Secretary.

17 Q That policy clearance email, is that
18 the clearance box?

19 A Yes, for the Office of Policy and
20 Strategy.

21 Q Does the Exec Sec listserv include
22 sort of other high-ranking officials within

1 USCIS?

2 A Yes, they have discretion to send
3 materials out depending on where it should go.
4 So at times they might send something to a
5 certain directorate or certain individuals. I
6 believe I'm copied on most that go to the
7 policy clearance, usually come to me as well.

8 Q Okay. Would the Director of USCIS
9 be copied sometimes?

10 A Not to my knowledge.

11 Q Okay. What about Gene Hamilton?

12 A Well, he worked at the department.

13 Q So no?

14 A No. This is just in the USCIS.

15 Q USCIS.

16 A Yes.

17 And Carl Risch, as Chief of Staff,
18 oversees the Executive Secretary, and that's
19 why he's put on these emails.

20 Q Okay. What about Craig Symons,
21 would he be copied sometimes?

22 A This is really a question for the

1 Exec Sec. At times -- he also has a clearance
2 box. Office of Chief Counsel had a clearance
3 box. And he may or may not be on emails, but
4 a lot -- most of what we do runs through
5 counsel anyway.

6 Q Okay. Would the listserv ever copy
7 like lower-level staff?

8 A Not generally, no. Usually it goes
9 to the clearance box and then is dispersed.

10 Q Okay. So this email goes out April
11 28, 2017, 1:50 p.m., the subject is
12 "information request" in brackets and then
13 "TPS for Haiti memo" and then a number after
14 that. Correct?

15 MR. CHO: The document speaks for
16 itself. The witness can answer.

17 A Generally, yes, that's what it says.

18 Q So the email states "Good afternoon
19 OP&S, DHS, ESEC" --

20 A ESEC.

21 Q ESEC, thank you.

22 "DHS ESEC has requested USCIS

1 provide a memo in regards to the Notice for
2 the termination of TPS for Haiti. The
3 following questions asked by S1 should be
4 included in the memo."

5 Then it lists four questions,
6 correct?

7 A That's correct.

8 Q ESEC, is that exec -- the same thing
9 or is that something else? No, that is
10 something else. What is that?

11 A Department, they call their
12 Executive Secretary the ESEC, and we call --
13 the USCIS component calls it Exec Sec. It's
14 essentially the same function.

15 Q So when it says, "The following
16 questions asked by S1 should be included in
17 the memo," and then it has the four bullet
18 points -- and just to read them quickly. So,
19 number 1, "How many current Haitian TPS folks
20 were illegal pre-TPS designation?"

21 "2, Since designation, how many have
22 committed crimes?"

1 "3, Since designation, how many are
2 on public assistance? Out of work?"

3 And then the fourth bullet point
4 says, "Can we describe what has changed in
5 Haiti warranting the recommended change (this
6 may be in the memo but I have not seen it yet)
7 - would include if verified items such as
8 rebuild of palace, build of army, change in UN
9 list, 4 to 5 percent growth in GDP."

10 Did I read that right?

11 A That's correct.

12 Q So numbers 1 through 3 are the same
13 as what you gave your staff in your April
14 25th, 12:13 email, correct? And feel free to
15 compare.

16 MR. CHO: Object to the form. The
17 documents speak for themselves.

18 A That is correct, the first three.

19 Q Okay. And they're identically
20 worded, correct?

21 A They appear to be.

22 Q Including some words like "Haitian

1 TPS folks," correct?

2 MR. CHO: Object to the form.

3 A Correct.

4 Q And "out of work?" correct?

5 A Correct.

6 Q Okay. So these are the categories
7 of information that you've been working with
8 your staff to get since April 7th, correct?

9 MR. CHO: Object to the form.

10 A This is data I requested on April
11 25th.

12 Q Right. But it's -- it's similar --
13 very similar to the data that you requested on
14 April 7th, correct?

15 A Some of it is.

16 MR. CHO: Object to the form.

17 Q Okay. So the first sentence of this
18 email says, "DHS ESEC has requested U.S. CIS
19 provide a memo in regards to the Notice for
20 the termination of TPS for Haiti."

21 What is your understanding of what
22 "Notice for the termination of TPS for Haiti"

1 is referring to?

2 A It's not clear. I don't know.

3 Q What's -- what would a Notice of
4 termination of TPS be?

5 MR. CHO: Object to the form.

6 A It's not really a term of art I
7 would use. I don't know why Aisha Barnes used
8 that terminology.

9 Q So when she says, "Notice for the
10 termination of TPS for Haiti," is it fair to
11 say it probably concerns termination of TPS
12 for Haiti?

13 MR. CHO: Object to the form. Calls
14 for speculation. That's not her email, but
15 the witness can answer.

16 A I think it has to do with TPS
17 designation. I don't know what the Notice for
18 the termination means.

19 Q Okay. Was Ms. Barnes writing this
20 email on behalf of USCIS Exec Sec?

21 MR. CHO: Object to the form.

22 Q She's acting in her official

1 capacity, in other words?

2 MR. CHO: Object to the form.

3 A No. She might have written that --
4 I don't know why she wrote it. It seems she
5 was tasked from DHS Exec Sec, ESEC.

6 Q Okay. So the request came from DHS
7 ESEC.

8 A Right. Whether or not that's her
9 language or somebody else's, I do not know.

10 Q Okay. So in the email above that,
11 Carl Risch emails you at 2:19 p.m., so shortly
12 thereafter, the same day. Just you, correct?

13 A Correct.

14 Q And he says, "We definitely have a
15 pretty good answer to number 1 per Sec
16 Napolitano." My apologies if I mispronounced
17 it. "100,000 to 200,000." And then he cites
18 -- he inserts a link, which looks like it's
19 from ABC News, correct?

20 A Correct.

21 Q Then he says, "While we don't know
22 for certain that all of the Haiti TPS folks

1 are from this population (I'm sure a handful
2 were students or something), it seems almost
3 certain that the vast majority were illegal."

4 Do you recall this email?

5 MR. CHO: Object to the form. Asked
6 and answered.

7 A It's vaguely familiar.

8 Q Okay. So he -- was he -- was this
9 information responsive to the request from DHS
10 ESEC?

11 MR. CHO: Object to the form. Calls
12 for speculation. The witness can answer.

13 A I don't know if it was entirely
14 responsive. I think Carl, having seen the
15 request come down, was trying to be helpful by
16 providing a resource.

17 Q Okay. Did you -- do you remember
18 looking at the news story?

19 A I vaguely remember seeing the news
20 story where she's quoted.

21 Q Okay. Do you recall approximately
22 what she said?

1 MR. CHO: Object to the form.

2 Q Something about the 100,000 to

3 200,000?

4 MR. CHO: Object to the form.

5 A Again, I vaguely recall where she
6 was trying to estimate -- estimate the number
7 of people unlawfully present from Haiti.

8 Q In the U.S.

9 A Yes.

10 Q And do you know whether any of those
11 100,000 to 200,000 reportedly illegal people
12 were TPS holders?

13 MR. CHO: Object to the form. Calls
14 for speculation. The witness can answer.

15 A I do not know. I would have to read
16 the article. I don't know where she got that
17 estimate.

18 Q So what did you understand to be the
19 basis for Mr. Risch's statement that it seems
20 almost certain that the vast majority were
21 illegal --

22 MR. CHO: Object to the form. Calls

1 for speculation. The witness can answer.

2 Q -- if there wasn't any information
3 on, you know, TPS registration?

4 MR. CHO: Object to the form.

5 A I think you would have to look at
6 the quote in the article to understand.

7 Q Okay. Do you recall whether the ABC
8 News story mentioned TPS?

9 MR. CHO: Object to the form.

10 A I don't recall, but the name of the
11 link appears to include protected status.

12 Q Okay. So going back to the email
13 below, so Ms. Barnes at the bottom says,
14 "Please provide your response by 5 p.m.
15 Monday, May 8, 2017," correct?

16 A That's correct.

17 Q So just -- just so I'm clear, so do
18 you have any memory of this email?

19 MR. CHO: Object to the form. Asked
20 and answered.

21 A I vaguely recall Carl's email. I
22 don't recall the first email necessarily.

1 Q Okay. And so your testimony is you
2 don't -- you don't have any understanding of
3 what DHS ESEC meant by Notice for the
4 termination of TPS for Haiti?

5 MR. CHO: Objection. Asked and
6 answered. Object to the form.

7 A I do not. The Executive Secretary
8 is really a person who pushes paper and may
9 not know any immigration lingo.

10 Q Would the DHS ESEC issue requests on
11 its own --

12 MR. CHO: Object.

13 Q -- of its own prompting?

14 MR. CHO: Object to the form. Calls
15 for speculation. The witness can answer.

16 A Would DHS ESEC send a request to us
17 on its own?

18 Q Right, or would it be transmitting
19 requests from others within DHS?

20 MR. CHO: Object to the form. Calls
21 for speculation.

22 A It's not clear. I don't know how --

1 how DHS ESEC works.

2 Q Okay. So when it says next, "The
3 following questions asked by S1 should be
4 included in the memo," what does S1 refer to?

5 A S1 refers to the Secretary.

6 Q Okay. Okay. So would -- do you
7 understand the four questions below to be
8 questions asked by S1 --

9 MR. CHO: Object to the form.

10 Q -- to be included in the memo?

11 MR. CHO: Object to the form. Calls
12 for speculation. The witness can answer.

13 A Yes, it could be, or it could be,
14 again, people may broadly use S1 to say the S1
15 office. So it's unclear.

16 Q Okay. So S1 or S1 office.

17 A Yes.

18 Q Okay.

19 MR. CHO: Same objection.

20 Q And when it says "should be included
21 in the memo," above it says memo -- "in
22 regards to the Notice for the termination of

1 TPS for Haiti," and your testimony is that you
2 don't have any understanding of what that
3 document is, what that refers to.

4 MR. CHO: Object to the form. Asked
5 and answered.

6 A I don't know what memo that refers
7 to.

8 Q Okay. So you have -- strike that.

9 So you have no memory of the impetus
10 for your identically worded questions that you
11 sent out in your April 25th, 2017, 12:13 p.m.
12 email?

13 A I do not.

14 MR. CHO: Object to the form.

15 Q Let's -- let's just turn back to the
16 long email chain. I lost the exhibit number,
17 116.

18 Okay. Okay. So here -- so April
19 20, the second portion.

20 MR. CHO: Sorry, what page are you
21 on? I got -- it's a long email.

22 MS. WEBB: Yeah, it's -- give me a

1 second.

2 I think it's 3778, the April 28th,
3 2017, 4:55 p.m. email.

4 MR. CHO: What date and time?

5 MS. WEBB: April 28th, 2017, 4:55
6 p.m. Sort of halfway down the page.

7 MR. CHO: So it looks like it's
8 3780.

9 MS. WEBB: Yes.

10 MR. CHO: I just want to make sure
11 we're all on the same page.

12 MR. PIPOLY: Literally.

13 BY MS. WEBB:

14 Q Okay. Okay. So in this email
15 you're emailing the same group of people, so
16 -- the last -- the last email that we
17 discussed in this chain was the one right
18 before it in the chain. It's Thursday, April
19 27th, 10:08 a.m. And you had written "I know
20 that some of it is not captured, but we'll
21 have to figure out more ways to squeeze more
22 data out of our systems," correct?

1 A That is in the previous email,
2 correct.

3 Q In this email you write "Following
4 up on this TPS data request. I had a few
5 thoughts." And then you list some additional
6 ideas to try to -- I think you had used the
7 term "collect some data," correct?

8 A Yes.

9 Q Okay. And this email comes just a
10 few hours -- it's 4:55 p.m., April 28th, 2017,
11 just a few hours after Mr. Risch had forwarded
12 the USCIS Exec Sec email, correct?

13 A Correct.

14 Q Okay. So number 1 -- you have three
15 bullet points. Number 1, you write "Can we
16 get OPQ and RED together to figure out to
17 conduct a random sampling of files that we
18 could then use to generalize the entire
19 population?"

20 So quick question, what is RED?

21 A RED is a division in Office of
22 Policy and Strategy. Its name is Research and

1 Evaluation Division.

2 Q Okay. What do they do?

3 A They do research, evaluate programs.

4 They provide data to subject matter experts

5 for the regulatory or policy process.

6 Q Okay. Do they keep record -- data

7 records themselves?

8 A No, they would -- they would work

9 with partners in the Office of Performance and

10 Quality and other directorates to compile the

11 data.

12 Q Okay. So they would have access to

13 data.

14 A Yes.

15 Q Would that be just data within USCIS

16 or potentially outside of USCIS as well?

17 A Mostly just USCIS, but they -- they

18 may work with other sister agencies.

19 Q So just to clarify, you have these

20 numbers, number 1, number 2, and number 3. Do

21 those -- are those responsive to the number 1,

22 number 2 and number 3 bullet points earlier in

1 the chain? You can review.

2 A (Document review.)

3 Yes, they are attempting to
4 coordinate with the previous request.

5 Q Okay. Got it.

6 What did you mean by "to conduct a
7 random sampling of files"?

8 A So a lot of times if we don't track
9 data electronically, oftentimes our Research
10 and Evaluation Division will do fraud
11 assessments or other types of assessments and
12 they pull paper files, and so I think my
13 suggestion was could we do like a random
14 sample of those files rather than pulling
15 500,000 files to do a sample.

16 Q So files refers to paper files.

17 A Yes.

18 Q Why would OPQ and RED get together
19 to do that? Why would that be useful, just so
20 I understand?

21 MR. CHO: Object to the form.

22 A I didn't -- I don't think I knew at

1 the time who could do it or how it could be
2 done, and since they were both on the chain,
3 they could work together to figure something
4 like that out because it's done quite often.

5 Q Okay. So the files that you're
6 referring to, the paper files, what subset of
7 paper files did you have in mind?

8 MR. CHO: Object to the form.

9 A I don't think I had anything in
10 mind. I'm simply throwing out suggestions for
11 the experts to figure out.

12 Q Okay. So if we go -- if we go back
13 just to the substance of number 1, back to the
14 most recent place where it's dated, which is
15 the Tuesday, April 25, 2017, 2:53 p.m. email,
16 just to refresh. So it says, "Number 1, how
17 many current Haitian TPS folks were illegal
18 pre-TPS designation?"

19 So I just want to understand sort of
20 what you were contemplating here. Could you
21 sort of explain what you had in mind --

22 MR. CHO: Object to the form.

1 Q -- with the random sampling
2 exercise?

3 MR. CHO: Object to the form. Asked
4 and answered.

5 A Well, because it's a self-reported
6 status, I thought it would be interesting to
7 see what people were self-reporting, if it was
8 accurate or not. Since we couldn't compile --
9 compile it electronically, I didn't know if it
10 would help to general -- to pull files and
11 review to see what kind of answers were given.
12 I wanted to see if there was more there than
13 what the electronic systems had.

14 Q Okay. So what subset of the U.S.
15 population would -- would be -- sorry.

16 I may need to go to lunch soon.

17 A I will say, I had nothing in mind.
18 Random sample, sampling is done all the time.

19 Q Yes.

20 A Statisticians figure that out --

21 Q Sure.

22 A -- what is statistically valid.

1 Q Sure, I just want to understand,
2 with respect to the files, what subset of the
3 U.S. population would the files be sampled
4 from?

5 A I don't know.

6 MR. CHO: Object to the form.

7 Q Would it be the Haitian population
8 generally?

9 MR. CHO: Object to the form.

10 A I do not know.

11 Q You don't remember?

12 A I don't remember. I mean, it's not
13 very clear here what I was seeking.

14 Q Do you think that you were leaving
15 it up to OPQ and RED to brainstorm further?

16 MR. CHO: Object to the form.

17 A Yes, that would be their job, is to
18 figure out what would be -- what could be
19 done, when with what.

20 Q I'll just finish up this email and
21 then we can go to lunch.

22 Number 2, it says, "Criminal

1 activity." "Has anyone reached out to ICE to
2 figure out if they have any data whatsoever on
3 Haitians with final orders of removal?"

4 Do you recall if this suggestion was
5 your idea?

6 MR. CHO: Object to the form.

7 A It may have been my idea. Probably
8 was my idea. I'm providing ideas to staff on
9 how to handle -- how we could possibly answer
10 a request for this type of data.

11 Q Okay. And just for the record,
12 final orders of removal is part of the
13 deportation process, correct?

14 A Correct.

15 Q Do you recall whether you were
16 successful or your staff was successful in
17 getting any data from ICE in response to this?

18 MR. CHO: Object to the form.

19 A I don't recall if we got that data
20 or not.

21 Q Would it be fair to say that someone
22 that ICE deported wouldn't be affected by a

1 TPS decision one way or another because they
2 were already deported?

3 MR. CHO: Object to the form. Calls
4 for speculation. Calls for a legal
5 conclusion. The witness can answer.

6 A This has nothing to do with whether
7 or not people were deported. You could have
8 thousands of people with final orders of
9 removal that remain in the United States.

10 Q Okay. Awaiting deportation.

11 A Right. Right now there are a
12 million people in the United States with final
13 orders of removal.

14 Q Right. If someone received a final
15 order of removal, do they lose their TPS
16 beneficiary status?

17 MR. CHO: Object to the form. Calls
18 for a legal conclusion.

19 A I do not know. I would have to ask
20 counsel.

21 Q So you ask here, "Has anyone reached
22 out to ICE to figure out if they have any data

1 whatsoever on Haitians for final orders
2 removal?" So that's are not limited to
3 Haitians who are TPS holders, correct?

4 MR. CHO: Object to the form.

5 Q Sorry.

6 A It's not clear by my email if I
7 meant to the general population or Haitian TPS
8 holders.

9 Q Do you say TPS holders?

10 MR. CHO: Object to the form. The
11 document speaks for itself.

12 A No, I do not, but we're talking
13 about Haitian TPS holders in previous emails
14 so it's not clear.

15 Q Okay. Then at the very bottom of
16 the email, you say, "Please dig for any
17 stories (successful or otherwise) that would
18 show how things are in Haiti, i.e., rebuilding
19 stories, work of nonprofits, how the U.S. is
20 helping certain industries. We should also
21 find any reports of criminal activity by any
22 individual with TPS, even though it's only a

1 snapshot and not representative of the entire
2 situation, we need more than 'Haiti is really
3 poor' stories."

4 Did I read that correctly?

5 A That is correct.

6 Q So at this time, April 28th, 2017,
7 had a Haiti TPS decision memo -- excuse me --
8 had a Haiti TPS determination been made?

9 A I have no idea.

10 MR. CHO: Object to the form.

11 A I do not know. I don't know the
12 timing of the decision memos or the decision.

13 MS. WEBB: Okay. We can bring this
14 in -- do we want to go to lunch?

15 MR. CHO: Sure. How much time do
16 you need? 30 minutes?

17 MS. WEBB: Let's come back maybe at
18 1 -- or we can do -- we can do 12:45.

19 MR. CHO: It's 1:15 now.

20 MS. WEBB: So we can do 1:45, that's
21 fine.

22 MR. CHO: 1:45.

1 MS. WEBB: Unless you want longer.

2 THE VIDEOGRAPHER: Off the record at

3 1:15.

4 (A lunch recess was taken.)

5 THE VIDEOGRAPHER: We're back on the

6 record at 2:01.

7 MS. WEBB: I'm going to introduce

8 Exhibit 120.

9 (Exhibit 120 was marked for

10 identification and attached to the deposition

11 transcript.)

12 BY MS. WEBB:

13 Q So just to refresh, I think you

14 testified that your first week on the job as

15 chief was that week of April 7th, 2017,

16 correct?

17 A Correct.

18 Q And do you recall when Secretary

19 Kelly announced his decision to extend Haiti

20 TPS for that additional six months in May

21 2017?

22 A I recall the decision, but I don't

1 remember the exact announcement or ...

2 Q Okay. And does the press release
3 there that you have in front of you, does that
4 reflect that Secretary Kelly issued the
5 decision to extend for six months on May 22nd,
6 2017?

7 MR. CHO: Object to the form. The
8 document speaks for itself.

9 A That is what the document says, an
10 extension for a limited period of six months.

11 Q So I just want to go back. Before
12 the break we were almost through the long
13 email chain, Exhibit 116, and we were on page
14 3788 on your April 28, 2017, 4:55 p.m. email.

15 So --

16 MR. CHO: Actually I'm not sure you
17 got the page number right.

18 MS. WEBB: 3778?

19 MR. CHO: No, that's the very first
20 page of the document.

21 A 3780.

22 Q Oh, I'm sorry, this has cut off page

1 numbers. 3780. Thank you.

2 So when you asked the staff that "we
3 should find any reports of criminal activity
4 by any individual with TPS. Even though it's
5 only a snapshot and not representative of the
6 entire -- representative of the entire
7 situation, we need more than 'Haiti is really
8 poor' stories," why did you believe that a
9 snapshot that's not representative of the
10 situation was relevant to the Secretary's
11 request for information?

12 MR. CHO: Object to the request.
13 Also object on the grounds that it seeks
14 information leading to internal governmental
15 deliberations, but the witness may answer.

16 A So my attempt at finding more data
17 or more information, any story successful or
18 otherwise, was an attempt to paint a full
19 picture of the situation in Haiti and those
20 with TPS. So I wanted to make sure the
21 Secretary had all the information that he
22 needed to make a decision.

1 Q Was it -- was it reflective of your
2 ideas here, to look for reports of criminal
3 activity by any individual with TPS?

4 MR. CHO: Object to the form. Asked
5 and answered. The witness can answer.

6 A I don't recall who had asked me or
7 if anyone had asked me to do this, but it is
8 in my email.

9 Q If you turn back with me to, I
10 believe it's Exhibit 117.

11 So, first I just want to get a sense
12 of who's on the email here. So you mentioned
13 Gene Hamilton is a DHS senior advisor.

14 A Sure, senior counselor or senior
15 advisor.

16 Q Senior counselor, okay.

17 Director Cissna is -- I should ask,
18 at the time, what was Mr. Cissna's role?

19 A He was at DHS Office of Policy.

20 Q And as of April 7th, 2017, what was
21 James McCament's role, if you recall?

22 A I don't recall if he was Director or

1 Acting Director.

2 Q Right.

3 And then who is Dimple Shah?

4 A Dimple has had a few positions. So
5 at the time I believe she was with the Office
6 of General Counsel.

7 Q Of DHS?

8 A Yes, DHS.

9 Q I know you had mentioned
10 Mr. Dougherty.

11 A Mr. Dougherty is with the Office of
12 Policy at headquarters, DHS.

13 Q You mentioned that Craig Symons was
14 chief of the Office of Counsel. Was that true
15 at the time?

16 A Chief of the Office of Chief
17 Counsel.

18 Q And Carl Risch, Chief of Staff?

19 A I don't know that he was on April
20 7th. I don't know what day he started as
21 chief of counsel.

22 Q Do you know by chance what he was

1 doing before he was in that position?

2 A He was also a senior advisor to the
3 Secretary.

4 Q Got it.

5 Okay. And then Mr. Risch, Chief of
6 Staff?

7 A I don't know if he was exactly Chief
8 of Staff at the time.

9 Q Do you know what he was doing prior
10 to --

11 A He was -- sorry. He was also --

12 Q Go ahead.

13 A He was also senior advisor to the
14 Secretary.

15 Q Okay. Great. Thank you.

16 Okay. So we had discussed this a
17 little bit before. So just to review, so
18 Mr. Hamilton says, "Hey team, S1 wants a small
19 briefing on TPS, likely on Monday. I think HQ
20 can handle the briefing, but if any of y'all
21 want to attend, that would be fine." I see
22 the point. Is HQ headquarters?

1 A Yes.

2 Q I think we know S1 is Secretary or
3 Acting Secretary.

4 A That's correct.

5 Q Although if it's Acting Secretary,
6 is it AS1 typically?

7 A Typically, not always. People
8 forget to put the A in.

9 Q At the time was Secretary Kelly the
10 Secretary of DHS?

11 A Yes.

12 Q And so -- so this is Friday, April
13 7th, the first week on the job, obviously.

14 He's talking about a meeting on
15 Monday, which would have been April 10th. Do
16 you have any memory of that meeting?

17 A No, I did not go to that meeting.

18 Q So you are aware that there was a
19 meeting on that Monday that you were not
20 there; is that correct?

21 MR. CHO: Object to the form.

22 A I would have been aware because I

1 saw this -- I would have received this email,
2 but I did not go to that meeting.

3 Q Okay. So then we had talked before
4 a bit about, he writes "In addition to the
5 general TPS document we had last week (showing
6 country, designation, expiration, etc.), he
7 would like the following related to Haiti,"
8 and then he lists these four categories.

9 So then after that he writes "Please
10 keep the prep for this briefing limited to
11 those on this email. If you need a specific
12 data set and need to ask someone to pull it,
13 please do not indicate what it is for. I
14 don't want this to turn into a big thing where
15 people start prodding and things start leaking
16 out."

17 Did I read that correctly?

18 A Yes.

19 Q Where sort of on the hierarchy are
20 you and Mr. Hamilton; is he sort of above you
21 or at your level, or below you?

22 MR. CHO: Object to the form.

1 A Well, he would work for the
2 Secretary and directly report to the
3 Secretary. I would report to the Director.
4 So if the Secretary's office wanted something,
5 I guess I would report to Gene Hamilton.

6 Q Okay.

7 A He is not in my chain of command.

8 Q Right. Right. Okay.

9 So this sort of group on the email,
10 the group of individuals, are these all
11 Schedule C political appointees or are there
12 any sort of career people on the email?

13 MR. CHO: Object to the form.

14 A Francis Cissna was a career. James
15 McCament was a career.

16 Q Okay. And the rest are --

17 A Schedule C.

18 Q Schedule C.

19 A Or political appointees.

20 Q Okay. Would you agree that it would
21 be improper for DHS to make a TPS
22 determination first and then ask research

1 staff to sort of pick data to support that
2 decision?

3 MR. CHO: Object to the form. Calls
4 for a legal conclusion. The witness can
5 answer. And also calls for speculation as
6 well, and a hypothetical. The witness can
7 answer.

8 Q In general.

9 A Are you assuming that -- are you
10 asking if --

11 Q Just generally.

12 A I think your question points to
13 making an assumption that a decision was made
14 before certain data was collected.

15 Q Just in general.

16 A I don't know that to be the case. I
17 don't think that is the case.

18 You can ask for data at any point at
19 any time, I believe, on any issue, and I think
20 the Secretary has the prerogative to ask for
21 data at any time.

22 Q Sure.

1 So aside from any email we looked
2 at, I'm just asking you sort of generally, do
3 you think it would be improper to have a TPS
4 decision made in the first instance and then
5 have research -- have the research staff come
6 up with data to support that decision after
7 it's been made?

8 MR. CHO: Objection. Again, calls
9 for speculation, is a hypothetical, and the
10 witness can answer if she can.

11 A I don't know if it's improper. I
12 don't know if it's done.

13 MS. WEBB: Okay. Let's go ahead and
14 introduce another exhibit here.

15 (Exhibit 121 was marked for
16 identification and attached to the deposition
17 transcript.)

18 MR. CHO: Exhibit 121.

19 THE REPORTER: 121.

20 MS. WEBB: 121.

21 MR. PIPOLY: CP.

22 MR. SNELL: 7859.

1 MR. PIPOLY: 7859? Thank you.

2 MR. CHO: The government objects to
3 Exhibit 121 on the grounds that it contains
4 internal governmental deliberations, but the
5 witness can answer questions about this
6 document.

7 A (Document review.)

8 Okay.

9 Q Okay. So this is another email
10 chain. So do you see that it starts with an
11 email we've already talked about, which is
12 your Friday, April 7th, 2017, 9:19 a.m.
13 email --

14 A Yes.

15 Q -- asking about data on public and
16 private relief and crimes of any kind on those
17 several categories. And it continues on -- we
18 can check to make sure exactly here.

19 A So the only new part of this is the
20 first email from May 8th at 6:48.

21 Q Yes, thank you.

22 Okay. So, just to go back, so to

1 April 28, 2017, your 4:55 p.m. email, which is
2 just on page 3 of this document, we've
3 discussed this. I don't want to reread it or
4 anything. But you have the three thoughts
5 that you list out in bullet points, correct?

6 MR. CHO: Object to the form. The
7 document speaks for itself.

8 A I'm sorry, on the first -- on that
9 email that we talked about?

10 Q No, it's just on the third page of
11 the document. It's back to the April 28th --
12 April 28th, 4:55 p.m. email.

13 A Okay.

14 Q April Padilla responds to your email
15 and says, "SCOPS and OPQ will be discussing
16 number 2 tomorrow." Correct?

17 A Correct.

18 Q And the next, Ms. Anderson responds
19 Monday, May 1st, at 8:03 a.m., same day. It
20 says, "Adding Jenna and Rob from RED for
21 counsel on number 1 (whether OPQ and RED can
22 conduct a random sampling of files) and Roy

1 and Tom from RAIIO RU on the request for
2 additional stories about conditions in Haiti,"
3 correct?

4 A Yes.

5 Q Is RAIIO RU -- well, you tell me.

6 A Is the research unit.

7 Q Is the research unit.

8 And I don't believe we've already
9 put it on the record, what does RAIIO stand
10 for?

11 A Refugee Asylum and International
12 Affairs. I don't know the -- International
13 Operations.

14 Q No one has known so far in this
15 case. Okay. Thank you.

16 Okay. So Ms. Anderson is adding
17 some people from other departments to help do
18 some research in response to your requests,
19 correct?

20 A Correct.

21 MR. CHO: Object to the form.

22 Q And then moving ahead, so Monday,

1 May 1st at 3:34 p.m., Michael Hoefer responds
2 and says, "We can provide names, receipt
3 numbers, and A-numbers for Haitian TPS. We
4 will need the list" -- excuse me -- "we will
5 need the list for number 2 as well anyway,"
6 correct?

7 A Yes.

8 Q And do you have any sense -- so his
9 first sentence there, do you have -- do you
10 have an idea of what he means by names,
11 receipt numbers, and A-numbers?

12 MR. CHO: Object to the form. Calls
13 for speculation. The witness can answer.

14 A The question that OPQ, the data
15 request in number 1, to conduct a random
16 sample of files, was targeted to OPQ. And I
17 believe Mike Hoefer, who represents OPQ, was
18 referring to that particular data request.

19 Q Okay. Do you know specifically what
20 he means by receipt numbers?

21 MR. CHO: Object to the form.

22 A So when somebody applies for a

1 benefit or petitions or an applicant applies,
2 as soon as they apply, they get a receipt
3 back. Each receipt is numbered. So at times
4 we can search databases based on receipt
5 numbers versus names.

6 Q Okay. If someone were to apply for
7 -- to become a TPS beneficiary, they would
8 file their application and then get a receipt
9 number back potentially.

10 A Right.

11 Q And what about A-numbers, what is
12 that? Do you know what he's referring to
13 there?

14 A That's an alien number, and that has
15 been used for decades where each individual
16 gets an A number to coincide with their entire
17 file. So each individual has a certain
18 A-number, and that A meant -- that person may
19 have several receipt numbers, but they should
20 have one A file.

21 Q Okay. When would they get that
22 A-number?

1 A Usually when they first applied or
2 encountered either -- I guess they could be
3 encountered by our sister component, ICE, or
4 apply for their first benefit with us.

5 Q So when they encounter the
6 immigration system.

7 A When they enter. It's not to say
8 that there aren't duplicates -- there aren't
9 duplicates, but we try to give one A-number
10 per alien.

11 Q Okay. Okay, thank you.

12 Okay. So the next email is that
13 same day, about an hour later, May 1st, 2017,
14 at 4:30 p.m. And LeRoy Potts, who's been on
15 the email chain for a bit here, sends this
16 email.

17 Who is Mr. Potts?

18 A I don't know Mr. Potts, but
19 according to the email, he was the chief of
20 research at Refugee Asylum and International
21 Services directorate.

22 Q Okay. So Mike could be the Roy that

1 Ms. Anderson refers to when she says "Roy and
2 Tom from RAIORU" on the request for
3 additional stories about conditions in Haiti?

4 MR. CHO: Object to form.

5 A It's a good guess. I don't know for
6 certain.

7 Q Okay. So Mr. Potts writes
8 "Unfortunately conditions in Haiti remain
9 difficult. Please see below."

10 Then he has five bullet points.

11 I'll just read the first -- well --

12 MR. CHO: Again, the document does
13 speak for itself. I don't know if you need to
14 read everything into the record.

15 Q Take -- you can take some time to
16 read it, if you'd like --

17 MR. CHO: Maybe it would be helpful
18 --

19 Q -- I'll ask you some questions.

20 MR. CHO: -- to ask her a question
21 so she knows when she's reading.

22 A (Document review.)

1 Q Okay. I'm just going to go through
2 the bullet points quickly.

3 So his first bullet point, he says,
4 "Haiti has not fully recovered from the 2010
5 earthquake." And he cites a Miami Herald
6 article from April 27th, correct?

7 A Correct.

8 Q On the second bullet point, he says,
9 "In October 2016, Hurricane Matthew struck
10 Haiti, causing 2.8 billion worth of damage -
11 equivalent to 1/3 of Haiti's gross domestic
12 product," correct?

13 A Correct.

14 Q He has "The United Nations requested
15 139 million emergency appeal for humanitarian
16 aid of only which 86 million was funded,"
17 correct?

18 A Correct.

19 Q In the third bullet point, looks
20 like he's citing something a United Nations
21 official said as of mid April 2017, "shelter
22 and food remain scarce in Haiti's southern

1 peninsula," correct?

2 A Correct.

3 Q Then the fourth bullet point, "From
4 April 20th to 24th, 2017, heavy rains caused
5 flooding in the departments of the South,
6 Southeast" -- I'm going to butcher this --
7 Grand'Anse and Nippes, with South Department
8 most affected," correct?

9 A Correct.

10 Q It says, "At least four people were
11 killed, and nearly 10,000 homes may have been
12 damaged. At least 350,000 people may have
13 been affected." Correct?

14 A Correct.

15 Q Then finally he says, "Economic
16 challenges in Haiti include double-digit
17 inflation, food insecurity in areas most
18 impacted by Hurricane Matthew, a depreciating
19 currency, and low levels of investment,"
20 correct?

21 A Correct.

22 Q He cites some news articles, four

1 different -- well, looks like at least three
2 different news articles and a website,
3 correct?

4 A Yes.

5 Q So this is in response to your
6 Friday April 28, 2017, 4:55 p.m. request that
7 you sent around to look for the three
8 categories of information that you say -- that
9 you state there, and then also your request to
10 please dig for stories, correct?

11 MR. CHO: Object to the form. This
12 email is from LeRoy Potts so it calls for
13 speculation. The witness can answer if you
14 know.

15 A I don't know for certain, but it's
16 likely that he responded "For the request for
17 additional stories about conditions in Haiti."

18 Q Uh-hmm.

19 And you had asked for stories,
20 successful or otherwise, that would show how
21 things are in Haiti, and you gave some
22 examples there, rebuilding stories, work of

1 nonprofits, how the U.S. is helping in certain
2 industries, positive stories, correct?

3 MR. CHO: Object to the form. The
4 document speaks for itself. The witness can
5 answer.

6 A Most likely they're positive, but
7 it's information that may paint a full picture
8 of what's happening in Haiti.

9 Q So more than just the Haiti is
10 really poor stories, as you say, correct?

11 MR. CHO: Object to the form.
12 Mischaracterizes her email. The witness can
13 answer.

14 A They're just additional data points
15 or information that the Secretary may need
16 that paints a fuller picture.

17 Q Okay. Mr. Potts responds, he uses
18 this term "unfortunately conditions in Haiti
19 remain difficult" and then provides sort of a
20 lot of negative stories; is that fair to say?

21 MR. CHO: Object to the form. The
22 document speaks for itself.

1 A He does say that, and he does
2 provide information that appears negative, I
3 guess.

4 Q Okay. Do you have any idea why he
5 used the word "unfortunately"?

6 MR. CHO: Object to the form.
7 That's Mr. Potts' email. Calls for
8 speculation. The witness can answer.

9 A I do not know why he wrote that
10 word.

11 (Exhibit 122 was marked for
12 identification and attached to the deposition
13 transcript.)

14 MR. CHO: The government objects to
15 Exhibit 122, Bates number on the first page
16 CP_7873, on the grounds that this document
17 contains internal governmental deliberations,
18 but the witness can answer questions about the
19 exhibit.

20 A (Document review.)

21 Okay.

22 Q Okay. Do you recognize this

1 document?

2 A I've seen documents like this
3 several times so I'm sure I've seen it in the
4 past.

5 Q Okay. What is it?

6 A It is a decision memo from then
7 Acting Director McCament for the Secretary
8 related to the Haiti designation.

9 Q Okay. And do you think that your
10 staff and you prepared this document?

11 MR. CHO: Object to the form.
12 Testify to what you know.

13 A Yes, generally OPS does help draft
14 this, yes.

15 Q Okay. And it looks like there's
16 some initials there at the top next to James
17 McCament's name. Based on your time working
18 with Mr. McCament, do you have an
19 understanding whether those are his initials
20 next to the name?

21 MR. CHO: Object to the form.

22 A I don't know for certain, but I

1 think so.

2 Q Okay. And it looks like the
3 document is unsigned, correct?

4 A Correct.

5 Q If you'd turn to the last page.
6 This is not the final version,
7 correct?

8 MR. CHO: Object.

9 Q The final signed -- I should say
10 this is not the final, executed version,
11 correct?

12 MR. CHO: Object to the form. Calls
13 for speculation. I'm not quite sure what you
14 mean by "final, signed version." It appears
15 there's no signature line on the document.

16 Q Well, this document is unsigned,
17 correct, by Mr. McCament -- Mr. -- excuse
18 me -- by Acting Director McCament, correct?

19 A It is signed by Acting Director
20 McCament up here, but it is not signed by
21 anyone else.

22 Q Okay. Let's talk about the last

1 page then. So, under -- so about halfway
2 through, there's a section there that says
3 "Recommendation." "Following interagency
4 consultation with DOS and a thorough review of
5 the conditions in Haiti, USCIS concludes that
6 termination of Haiti's TPS designation is
7 warranted and recommends that you terminate
8 the designation with an effective date of
9 January 22nd, 2018, which is six months after
10 the current expiration date," correct?

11 A Correct.

12 Q Then below that it says,
13 "Approve/date, disapprove/date, modify/date,
14 or needs discussion/date."

15 What's your understanding of what
16 that section is on the document?

17 A My understanding is that is part of
18 the template for a memo and that is where the
19 Secretary would have signed to approve or
20 disprove, to modify or to tell staff he needed
21 to discuss further.

22 Q Okay. So a final, signed version of

1 this that was headed up to headquarters to the
2 Secretary would -- would include a signature
3 in one of these blanks; is that correct?

4 MR. CHO: Object to the form.
5 Mischaracterizes her prior testimony.

6 Q Or is that left for the Secretary to
7 sign?

8 A This is for the Secretary.

9 Q I see, okay. Thank you.

10 A So this was -- this is not signed by
11 the Secretary.

12 Q Okay. Okay. So this memo is dated
13 April 10th, 2017, which I think, based on what
14 we talked about before, is your second week on
15 the job, right?

16 MR. CHO: Object to the form.

17 A It's exactly one week after I
18 started.

19 Q Okay. Okay. And it's also three
20 days after Exhibit 117, Mr. Hamilton's April
21 27, 2017, 7:58 a.m. email to you and others,
22 correct?

1 MR. CHO: Object to the form. The
2 documents speak for themselves.

3 A It is.

4 Q So what did you -- what would you
5 understand to be -- excuse me.

6 What did you understand to be the
7 relationship, if any, between Acting Director
8 McCament signed the decision memo here and
9 Mr. Hamilton's email where he asked for
10 information to be pulled but kept secret?

11 MR. CHO: Object to the form. Calls
12 for speculation. The witness can answer.

13 A Well, if you look at the April 7th
14 email, there's nothing in there that mentions
15 it's needed for the decision so the
16 relationship is -- the two could be not
17 connected.

18 Q Okay. So it's just a coincidence
19 that these came this close together; is that
20 your testimony?

21 MR. CHO: Object to the form.
22 Argumentative. Calls for speculation.

1 Q I'm just asking if that's your
2 testimony.

3 MR. CHO: That is not what she said
4 either, so that mischaracterizes her
5 testimony. The witness can answer if she can.

6 A I don't know how the two relate.
7 I'm just saying they don't -- they don't
8 reference each other. This doesn't reference
9 a memo -- I'm sorry -- the April 7th email
10 from Gene Hamilton does not reference a memo.

11 Q Okay, thank you.

12 So, I know you had a chance to look
13 at the April 10th, 2017, decision memo. I
14 don't expect you to read every word, but when
15 you were reviewing it, did you see any
16 discussions in it about crime statistics for
17 Haitians or Haitian TPS beneficiaries in the
18 decision memo?

19 MR. CHO: Object to the form. The
20 document speaks for itself.

21 A I don't see anything in that memo
22 related to criminality.

1 Q Okay. Did you see anything related
2 to the lawful or unlawful immigration status
3 of Haitian TPS beneficiaries when they
4 registered in the decision memo?

5 MR. CHO: Object to the form. The
6 document speaks for itself.

7 A No, I don't. I haven't read every
8 footnote, and I don't know exactly what every
9 footnote is, but I don't see anything.

10 Q Okay, sure.

11 The same question about --

12 A I --

13 Q Please go ahead.

14 A No. I'll only mention of how one is
15 eligible based on continuous physical
16 presence, footnote 12.

17 Q Okay. Then the same question for
18 any reference to your discussion of how many
19 Haitian TPS beneficiaries are on public or
20 private relief.

21 MR. CHO: Same objection. The
22 document speaks for itself.

1 A Not that I can see. It discusses
2 public health -- the public health system and
3 the health situation in Haiti.

4 Q In Haiti, okay.

5 And just to close the loop here, any
6 -- did you see any discussion of, sort of,
7 general demographic data on Haiti TPS
8 beneficiaries?

9 MR. CHO: Object to the form.
10 Vague. Overbroad. The witness can answer.

11 A It talked about people who are
12 displaced.

13 Q In Haiti.

14 MR. CHO: Same objection.

15 A Yes, it discusses that on page 7875.

16 Q Okay. And that's -- I see that.

17 That's in reference to demographics of
18 population within Haiti?

19 A Uh-hmm.

20 Q But not of Haiti TPS beneficiaries
21 within the U.S., correct?

22 MR. CHO: Object to the form.

1 A As far as I can see, yes.

2 Q And then, finally, any discussion of
3 either travel back and forth to Haiti by Haiti
4 TPS beneficiaries or remittances sent by Haiti
5 TPS beneficiaries in this memo?

6 A No. Only reference to the U.S.
7 government working to strengthen Haitian civil
8 service and government service delivery.

9 Q Okay, great. Thank you.

10 So is it fair to say that this memo
11 does not have any discussion about any of the
12 categories of information that Mr. Hamilton
13 requested three days before it's dated on
14 April 7th, 2017, in this 7:58 a.m. email?

15 A It is --

16 MR. CHO: Object to the form.

17 A It is fair to say what you have --
18 what I have in front of me does not
19 necessarily cover that information. However,
20 I am not certain what the attachments include,
21 attachment B or C or D.

22 Q Okay.

1 A There may be additional information
2 in those memos that I'm not aware of.

3 Q Okay. But -- okay. You answered
4 that. Thank you.

5 Okay. We already have this. Okay.

6 Could you turn back to Exhibit 121
7 for me.

8 Okay. So the top email on that
9 chain dated May 8, 2017, at 6:48 p.m. This is
10 just an email from Mr. Prelogar to
11 Ms. Anderson that you're not copied on,
12 correct?

13 MR. CHO: The document speaks for
14 itself.

15 A I am not on this email, no.

16 Q Okay. So Mr. Prelogar says, "Roy,
17 Tom, Kathy met with Kathryn and me briefly
18 today on additions DHS/HQ has requested we
19 make to the USCIS Haiti TPS Decision Memo,
20 which is being pulled back in order for us to
21 edit it accordingly. Among the various items
22 they have asked us to provide information on,

1 there were three we wanted to seek RU's
2 assistance in addressing to ensure the content
3 is accurate and pulled from reliable sources
4 so that the new material abides by the same
5 (high) standard as the other country
6 conditions information USCIS reports."

7 Did I read that correctly?

8 A Yes.

9 Q And do you recall in May that the
10 Haiti TPS decision memo was -- that
11 headquarters asked for it to be revised?

12 MR. CHO: Object to the form.

13 A That would -- that would not be
14 uncommon. It goes through many layers of
15 review.

16 Q Do you recall the meeting that
17 Mr. Prelogar describes there on May 8th?

18 A No.

19 Q So to go over just the bullet points
20 below, so the first is asking for "GDP growth
21 - longer term trend." Second, it says,
22 "Information regarding the UN's decision to

1 conclude its peacekeeping mission in October
2 2017."

3 And third is, "Information regarding
4 the reconstruction of the Presidential Palace
5 and what that suggests regarding the
6 government of Haiti's post-earthquake recovery
7 and capacity."

8 I didn't read the full bullet points
9 for one and two, but did I read that
10 correctly?

11 A Yes.

12 MR. CHO: Just so the record is
13 clear, you did not read the entire bullet
14 points, but I just want to make sure that's on
15 the record.

16 Q With respect to the first bullet
17 point, what was your understanding of why that
18 information specifically was being requested
19 by DHS headquarters for this decision memo?

20 MR. CHO: Object to the form. I'll
21 also object on the grounds that it seeks
22 internal governmental deliberations, but the

1 witness can answer.

2 A I don't know specifically, but it
3 goes back to the fact that the Secretary is
4 making a pretty big decision and he needs all
5 the information to paint a full picture of
6 what's going on in the country of Haiti.

7 Q Okay. Would that -- would your
8 answer apply to the next two bullet points
9 there or did you have any understanding
10 specifically of why?

11 A The same response.

12 Q Okay.

13 (Exhibit 123 was marked for
14 identification and attached to the deposition
15 transcript.)

16 MR. CHO: Is this 123?

17 THE REPORTER: Yes.

18 MR. CHO: The government objects to
19 Exhibit number 123, which is Bates number
20 DPP_3121 on the grounds that this email
21 exchange contains internal governmental
22 deliberations, but the witness can answer

1 questions about the exhibit.

2 A Okay.

3 Q Okay. So the first email in this
4 chain, bottom email in this chain, is one that
5 we have previously discussed. And -- excuse
6 me -- and the email above it -- and you're not
7 copied on that first email in the chain,
8 correct, in the bottom email?

9 A No.

10 Q And do you know whether or not you
11 were on the USCIS Exec Sec listserv and got
12 the email that way?

13 A I don't know.

14 Q Okay. So the email above it, on
15 Monday, May 8th, 2017, 5:30 --

16 A Can I ask you to clarify?

17 Q Yes, sure.

18 A The listserv, what listserv are you
19 talking about?

20 Q Oh, so when we had previously
21 discussed the email earlier in the deposition,
22 I think you had mentioned that --

1 A After Maria and after Constance --

2 Q Uh-hmm.

3 A -- is an email box for the Exec Sec.

4 It's not a listserv, I don't believe.

5 Q Oh, okay.

6 A I don't think I ever said that.

7 Q Okay. Sorry. I must have
8 misunderstood.

9 A Just to clarify that that is an
10 email address for the General Executive
11 Secretary.

12 Q Okay. Same question with respect to
13 policy clearance, would you be on that email?

14 A No. That goes -- that is a certain
15 email address. Sometimes I'm copied when they
16 send things to policy clearance, but I was not
17 copied on this one.

18 Q Okay.

19 So the email above it, Monday, May
20 8th, 5:30 p.m., Mr. Prelogar responds to this
21 bottom email to you and to a number of other
22 people, correct?

1 A Correct.

2 Q Okay. So earlier in this chain in
3 the bottom email, the USCIS Exec Sec has, as
4 we discussed, has requested "USCIS provide a
5 memo in regards to the Notice for the
6 termination of TPS for Haiti." Mr. Prelogar
7 says -- excuse me. The following --
8 continues. The following questions --

9 MR. CHO: We've already gone over
10 that email already.

11 MS. WEBB: I just want to refresh
12 her so she has some context for the next
13 email.

14 BY MS. WEBB:

15 Q "The following questions should be
16 requested by S1 should be included in the
17 memo." Correct?

18 MR. CHO: The document speaks for
19 itself, and we've already gone over this email
20 already.

21 You can answer again.

22 A That's what the email says, yes.

1 Q Okay. So above Mr. Prelogar says,
2 "Attached is a memo with responses to S1's
3 questions below," correct?

4 A Correct.

5 Q And he says, "OP&S's Chief, Kathy
6 Nuebel Kovarik, copied here, sent this
7 directly to S1's Chief of Staff, Kirstjen
8 Nielsen, so S1's office has received it."
9 Correct?

10 A Correct.

11 Q And do you recall that memo or
12 sending it to the Secretary -- the Secretary's
13 Chief of Staff?

14 A No, I don't recall that.

15 Q There's just a couple of people who
16 are on this email who are new who I'm going to
17 ask you about.

18 So it's Mr. Prelogar sends the email
19 to Ms. Anderson and to policy clearance, that
20 email box we talked about, and to Larry
21 Levine, correct?

22 A Correct.

1 Q And then below copied is Michael
2 Rather. Who is that?

3 A Michael Rather is Office of Policy
4 and Strategy, Chief of Staff.

5 Q Okay. Is that your Chief of Staff?

6 A It is. And he helps manage the
7 policy clearance box.

8 Q Okay.

9 A Along with -- yes, along with Josie
10 Graziadio, they manage the clearance box.

11 MS. WEBB: Okay. Can we take five
12 minutes?

13 MR. CHO: Sure.

14 MS. WEBB: Take a quick break.

15 THE VIDEOGRAPHER: Going off the
16 record at 3:03.

17 (A brief recess was taken.)

18 THE VIDEOGRAPHER: We're back on the
19 record at 3:15.

20 MS. WEBB: I would like to mark
21 Exhibit 124.

22 (Exhibit 124 was marked for

1 identification and attached to the deposition
2 transcript.)

3 MR. CHO: The government objects to
4 Exhibit 124 on the grounds that it contains
5 internal deliberations. The first page is
6 Bates number DPP_18469, but the witness can
7 answer questions about this exhibit.

8 MR. PIPOLY: Just real quick,
9 because you're not instructing the witness, I
10 didn't mean to make a big deal out of this
11 earlier, but all these -- I just want to get
12 it on the record that Plaintiffs' position is
13 that all of these objections to the documents
14 themselves on deliberative process grounds is
15 improper. It's in a stipulation entered
16 between the court the government won't object
17 on deliberative process grounds to any
18 document that's been produced in this case, so
19 all of these objections to deliberative
20 process as to the documents has been waived by
21 the government.

22 MR. CHO: That's fine. That's your

1 position. We're raising the objection to
2 preserve the record.

3 MR. PIPOLY: It's in the
4 stipulation.

5 MR. CHO: Okay. I think your
6 colleague is asking the questions today.

7 A (Document review.)
8 Okay.

9 Q Who is -- who is Dolline Hatchett;
10 do you know?

11 A I do know. Chief -- at the time she
12 was Chief of the Office of Communications for
13 USCIS.

14 Q Okay. So the first email in this
15 chain attaches a news story. It looks like it
16 says by Ted Hesson, correct?

17 A Correct.

18 Q Do you recall reading this news
19 story at the time?

20 A I recall seeing several stories and
21 this was one of them, yes.

22 Q Okay.

1 And the title, it says, "DHS
2 official: Crime data on Haitians won't be used
3 for TPS decision," correct?

4 A That's what it says.

5 Q Do you recall what the reaction was
6 to this story internally within USCIS?

7 MR. CHO: Object to the form. Calls
8 for speculation. Vague. Testify to what you
9 know.

10 A People were generally calm. If
11 anything, it was the fact that deliberative
12 emails were leaked, not the content.

13 Q Okay. Did USCIS ever determine who
14 had leaked the emails?

15 MR. CHO: Object to the form.

16 A No.

17 Q What was your reaction to the story?
18 Do you remember?

19 MR. CHO: Object to the form.

20 A That questions that I asked in the
21 deliberative and confidential -- not
22 confidential -- but in a manner to my staff

1 were leaked to the press. Again, not so much
2 about the content.

3 Q Okay. Do you recall back in Exhibit
4 117 when Mr. Hamilton had sent out that April
5 27, 2017, request regarding criminality
6 information, that he had said "if you need a
7 specific data set you need to ask someone to
8 pull it, please do not indicate what it is
9 for, I don't want this to turn into a big
10 thing where people start prodding and things
11 start leaking out." Correct?

12 A That is correct.

13 Q Did you ever talk to him about this
14 associative press story?

15 A I don't think I ever did.

16 Q When it says -- when the story says,
17 "Crime data on Haitians won't be used for TPS
18 decision," did you have an understanding of
19 what that meant at the time?

20 A I can only go by what's in the
21 political story. The Secretary's decision
22 will hinge upon the conditions in that

1 country, I suppose.

2 Q And do you know whether it was a
3 true statement, in fact, that crime data on
4 Haitians would not be used for the TPS
5 decision at the time?

6 MR. CHO: Object to the form. Calls
7 for speculation. You can testify as a fact
8 witness. Testify to what you know.

9 A I do not know what was considered.

10 Q Okay. What was considered by whom?

11 MR. CHO: Object to the form.

12 A The Secretary makes that decision.

13 Q Okay. What about the -- what about
14 the various inputs to that decision, do you
15 know whether it was a true statement that the
16 criminality data would not be used in those
17 inputs?

18 MR. CHO: Object to the form.

19 Vague.

20 A I'm not sure what your question is.

21 I'm sorry.

22 Q That's fair.

1 Let me ask you this question. So
2 we've looked at a number of emails today. We
3 know that as of May 9th you had been
4 supervising a lot of research that was being
5 conducted into data on criminality on the
6 Haitian TPS population, correct?

7 MR. CHO: Object to the form.
8 Mischaracterizes prior testimony.

9 A I guess for months I was involved in
10 researching Haiti.

11 Q Okay. You say months. I just want
12 to talk about, I guess, the research on
13 criminality specifically. Was it months or
14 was it weeks? Do you remember?

15 MR. CHO: Object to the form.

16 A I don't know how long I did.

17 Q I guess we can trace it all the way
18 back to the April 7th, 2017, email you sent
19 out, correct?

20 MR. CHO: Object to the form.

21 Q When you made your first request to
22 your staff.

1 A I don't know what day that was.
2 April 7th?

3 Q Yes. Okay.

4 So do you know whether on this day,
5 May 9th, when this official -- when the
6 Homeland Security Department spokesperson
7 refuted the idea that data on criminality
8 could be used to decide whether to renew
9 humanitarian protections for Haitians in the
10 U.S, do you know whether the research that you
11 were supervising on criminality of the Haitian
12 TPS population came to a stop at that point?

13 MR. CHO: Object to the form. Calls
14 for speculation. The witness can answer.

15 A I don't know when it "came to a
16 stop" or when we halted any conversation on
17 criminality. I would have to go back to
18 previous emails that you've shown me here.

19 Q Okay.

20 A It's not fair to say that it stopped
21 because of this story.

22 Q Okay.

1 MS. WEBB: We'll mark this as
2 Exhibit 125.

3 (Exhibit 125 was marked for
4 identification and attached to the deposition
5 transcript.)

6 MR. CHO: The government again
7 objects to Exhibit 125 on the grounds that
8 this document contains internal governmental
9 deliberations, but the witness may answer
10 questions about this exhibit.

11 A (Document review.)

12 Okay.

13 Q Okay. You had testified that, I
14 think you said it's not fair to say that the
15 research on criminality had stopped. My
16 question to you on this email chain is just
17 whether this email chain reflects some
18 additional research into that sort of criminal
19 background continued to occur after May 9th,
20 2017.

21 MR. CHO: Object to the form.
22 Mischaracterizes her testimony. Exhibit 125

1 speaks for itself. The witness may answer.

2 A It appears that they were still
3 attempting to answer the question that I posed
4 to them.

5 MS. WEBB: Mark this as Exhibit 126,
6 I believe.

7 (Exhibit 126 was marked for
8 identification and attached to the deposition
9 transcript.)

10 MR. CHO: The government objects to
11 Exhibit 126 on the grounds that these emails
12 contain internal governmental deliberations,
13 but the witness can answer questions about
14 this exhibit.

15 A (Document review.)

16 Q Just let me know when you're ready.

17 A Okay, I think I'm ready.

18 Q Okay. So I just want to direct your
19 attention to the middle of page 7311. Do you
20 see where there it says, "Were crime and
21 public benefits data used to make the
22 decision"?

1 A Uh-hmm.

2 Q It says, "No, criminal history and
3 public benefit usage was not used as criteria
4 for the TPS determination. The decision was
5 based on whether Haiti met the statutory
6 conditions for TPS," correct?

7 A That's what it says in this version.

8 Q Okay.

9 A But I would note that that is what
10 is pasted, and it's not clear whether that's
11 final or not.

12 Q Right.

13 A But it's pasted.

14 Q So then above -- actually above this
15 -- these talking points, there's some
16 additional discussion, correct?

17 A Correct.

18 Q If you go to page 7309, email by
19 Mr. Prelogar, May 20th, 2017, 8:31 p.m. So
20 that's later the same day that Mr. Prelogar
21 sent out the talking points, correct?

22 A Correct.

1 Q He writes "+Kathy, quick thoughts --
2 think this bit will need tweaking." Then he
3 has a statement about automatically retaining
4 their TPS, correct?

5 A Correct.

6 Q Then if you go down just to the
7 bottom there, he says -- bottom of the page.
8 He says, "Also, on the crime and public
9 benefits question, I think we should just
10 respond with the second sentence only. We did
11 try to dig up some data on crime and public
12 benefits, and I think it's both unnecessary
13 and overly defensive to say we did not use
14 data of that sort in our decision-making (And,
15 in any event, there is a fair argument that
16 that sort of data could be considered under
17 the statute for Haiti's designation and
18 extensions on the basis of extraordinary and
19 temporary conditions, given the national
20 interest component.)"

21 Did I read that correctly?

22 A That's correct.

1 Q So Prelogar -- Mr. Prelogar we know
2 is one of your SME's, correct?

3 A Correct.

4 Q Do you agree with him there that
5 there's a fair argument that crime data could
6 be considered under the statute?

7 MR. CHO: Object to the form. Also
8 objection to the extent it seeks information
9 into internal governmental deliberations, but
10 the witness can answer.

11 A Yes, I agree there's a fair argument
12 to be made.

13 Q Okay. When he says that that
14 statement on crime and public benefits is
15 unnecessary and overly defensive, did you
16 agree with his assessment there as well?

17 MR. CHO: Same objection. The
18 witness can answer.

19 A I don't know if I agreed with it at
20 the time. It looks like I made edits after --
21 after his email, so I don't know what kind of
22 edits I would have made to the document,

1 especially on that second sentence.

2 Q Okay. All right.

3 Okay. So I think you testified
4 today that you don't recall the purpose for
5 which you were supervising the collection of
6 the data on public assistance and crime; is
7 that correct?

8 MR. CHO: Object to the form.

9 Mischaracterizes her prior testimony.

10 A I don't know exactly, but generally
11 we are discussing a decision related to TPS
12 designations, so I don't know exactly what the
13 information was going to be used for.

14 Q Okay. But do you recall that it had
15 to do with the TPS designation that was coming
16 up?

17 MR. CHO: Object to the form.

18 Testify to what you know.

19 A I don't recall it -- I don't recall
20 what it was going to be used for, if it was in
21 the decision-making process or if it was in a
22 different memo. It could have been used a

1 variety of different ways, so -- but, again,
2 what we're talking about is TPS designations.

3 Q Okay. Do you recall whether initial
4 -- early on in the process, sort of on that
5 Friday when you just started your job, April
6 7th, when you requested this information, had
7 you thought at the time that it was going to
8 go into that April 10 decision memo?

9 MR. CHO: Object to the form.
10 Vague. Calls for speculation. The witness
11 can answer.

12 A No, I wouldn't know what that was --
13 no. My first week on the job, I didn't know
14 what the information was going to be used for.

15 Q Okay. After the April 10 decision
16 memo was signed by Director -- Acting Director
17 McCament, I think we discussed how you sort of
18 continued to supervise the collection of that
19 information, correct?

20 MR. CHO: Object to the form.
21 Vague. What information are you referring to?

22 Q The public assistance and

1 criminality information on Haiti TPS
2 beneficiaries. Correct?

3 MR. CHO: Object to the form.

4 A After that date I believe the search
5 for that data was still continuing.

6 Q Okay. At that time, did you have an
7 understanding that it would inform a revised
8 decision memo for Director McCament?

9 MR. CHO: Object to the form. Calls
10 for speculation. The witness can answer.

11 A I don't know if there was going -- I
12 didn't know there was going to be a revised
13 memo or if there is a revised memo in fact, so
14 I don't know what that information is going to
15 be used for.

16 Q Okay. You don't remember now or you
17 didn't know it at the time?

18 MR. CHO: Object to the form. That
19 wasn't her testimony. You mischaracterized
20 her testimony. The witness can answer.

21 A I don't remember -- I don't know now
22 and I didn't know then most likely what the

1 information was going to be used for.

2 Q Okay. Did you have an understanding
3 that it was requested by the Secretary or the
4 Secretary's office?

5 MR. CHO: Object to the form.
6 Vague.

7 A Which information?

8 Q The same, the information on public
9 assistance and criminality of TPS
10 beneficiaries.

11 MR. CHO: Object to the form. This
12 was asked and answered earlier this morning.
13 The witness can answer if you remember.

14 A I can only go by what you've shown
15 here, and that is the April 7th email that the
16 Secretary's office was looking for more
17 information, and that was the information that
18 they had asked for.

19 Q Okay. That's Exhibit 117 you're
20 looking at there?

21 A Yes.

22 Q Is that -- that's the one from Gene

1 Hamilton. Thank you.

2 Let's turn back to Exhibit 120 for
3 me.

4 Okay. And in this press release
5 it's announced that the TPS Haiti designation
6 would be extended for only six additional
7 months. Correct?

8 MR. CHO: Objection. Asked and
9 answered.

10 A Correct.

11 Q Does it say anywhere that the Haiti
12 TPS designation will be terminated at any
13 point?

14 MR. CHO: Objection. The document
15 speaks for itself.

16 A No, this document does not say Haiti
17 will be terminated.

18 Q Okay. So it does, however, refer to
19 Haitians -- Haitian TPS recipients who do not
20 have another immigration status to use the
21 time before January 22nd to prepare for and
22 arrange for their departure from the United

1 States, correct?

2 A That's what it says.

3 Q It talks about making other
4 necessary arrangements for their ultimate
5 departure from the United States, correct?

6 MR. CHO: That's -- you're
7 paraphrasing the document. The document
8 speaks for itself. The witness can answer.

9 A Sorry, I missed your question. And
10 whether or not it says that they can apply for
11 other immigration benefits?

12 Q Just -- I just wanted to point to
13 one of the places where it mentions arrange --
14 sorry -- "This six-month extension should
15 allow Haitian TPS recipients living in the
16 United States time to attain travel documents
17 and make other necessary arrangements for
18 their ultimate departure from the United
19 States," correct?

20 MR. CHO: What page are you on, the
21 first page?

22 MS. WEBB: It starts on the bottom,

1 at the very bottom of the first page. Sorry.

2 MR. CHO: Assuming you read it
3 correctly, again, the document speaks for
4 itself. What's your question?

5 A That's what it states.

6 Q Okay. And six months from May 22nd,
7 2017, is November 2017, correct?

8 A November, yes.

9 MS. WEBB: I apologize for the
10 delay, but the good news is I'm skipping a
11 bunch of documents. That's why it's taking me
12 a minute here.

13 Let's mark 127.

14 (Exhibit 127 was marked for
15 identification and attached to the deposition
16 transcript.)

17 MR. CHO: What number is this?

18 THE REPORTER: 127.

19 MR. CHO: All right. The government
20 objects to Exhibit 127 on the grounds that it
21 contains internal governmental deliberations,
22 but the witness may answer questions about

1 this exhibit.

2 A (Document review.)

3 Okay.

4 Q Starting with the first, the bottom
5 email in this chain, we fast forwarded now to
6 October 2017, and Mr. Prelogar emails you and
7 Ms. Anderson and Mr. Levine, the subject is
8 "Haiti draft TPS memo," correct?

9 A Correct.

10 Q Okay. Do you recall the Haiti
11 decision memorandum that was drafted around
12 this time?

13 A No. I've seen many versions of
14 memos.

15 Q Okay. So Mr. Prelogar writes in the
16 second sentence there, "Kathryn and I have
17 completed a draft TPS draft decision memo
18 (attached). In short, based on our review of
19 country conditions, we have written it so that
20 it could support either extension or
21 termination, but left the recommendation
22 blank, pending further discussion," correct?

1 A That's correct.

2 Q Okay. And the next -- in the next
3 email, Sunday, October 22nd, 2017, 4:23 p.m.,
4 you forward the memo to Mr. Law, correct?

5 A That's correct.

6 Q He was your senior advisor at the
7 time?

8 A That's correct.

9 Q You ask him to take a look at the
10 draft, correct?

11 A That is correct.

12 Q So at this point in the process, in
13 October, do you recall whether any official
14 decision on the TPS designation for Haiti had
15 been made yet?

16 MR. CHO: Object to the form.

17 A No. I learned that no decision is
18 made until the Secretary makes a decision.

19 Q Okay. Do you recall that was in
20 November of 2017 when that decision was made?

21 A It's 60 days before the expiration
22 so I don't know exactly what date, but it

1 would have been 60 days before January 22nd of
2 2018.

3 Q Okay. So that would be, I guess,
4 November 22nd, 2018.

5 A Okay.

6 MR. CHO: Her microphone came off.
7 Do you want to fix it?

8 MR. PIPOLY: Actually, let's take a
9 break.

10 MR. CHO: Sure.

11 THE VIDEOGRAPHER: Going off the
12 record at 3:56.

13 (A brief recess was taken.)

14 THE VIDEOGRAPHER: We're back on the
15 record at 4:06.

16 BY MS. WEBB:

17 Q Okay. We were reviewing Exhibit
18 127, and Mr. Prelogar had sent you a draft
19 Haiti TPS decision memo on October 12th, 2017.
20 And on October 22nd, 2017, you had forwarded
21 that memo to Mr. Law, correct?

22 A That is correct.

1 Q You said specifically, "Can you take
2 a look at this draft? I need to circulate to
3 some folks but want another set of eyes on it.
4 Thanks."

5 Is that correct?

6 A That is correct.

7 Q Okay. You testified that at this
8 time, to your understanding, that this
9 termination had not been made by the Secretary
10 yet on Haiti TPS designation, correct?

11 A Correct.

12 Q Another question. At that time, was
13 there an understanding already by you and your
14 staff that a decision to terminate Haiti TPS
15 was in the offering?

16 MR. CHO: Object to the form.
17 Vague. Calls for speculation. Testify to
18 what you know.

19 A Sorry, can you clarify, even though
20 a decision has not been made, whether or not I
21 understood it to be in the off --

22 Q Sorry, let me rephrase.

1 A Okay.

2 Q Did you and your staff have an
3 understanding of what decision recommendation
4 you were going to put into the memo at that
5 time?

6 MR. CHO: Object to the form. Calls
7 for speculation. Testify to what you know.

8 A Normally when we write a decision
9 memo and we include a recommendation, we talk
10 through that recommendation with the subject
11 matter experts, Brandon and Kathryn, we would
12 have sat down and talked to them about that.
13 But then also would have talked it through
14 with others in the office, including counsel,
15 Chief of Staff, the Director, the Deputy
16 Director. So even if I did put a
17 recommendation in an early draft, that doesn't
18 mean that that's the recommendation that
19 ultimately prevails.

20 Q In the decision memo that goes up
21 for the Director.

22 A Correct.

1 Q And do you ultimately own the
2 recommendation made in the decision memo that
3 goes up to the Director?

4 MR. CHO: Object to the form. Vague
5 and ambiguous. The witness can answer.

6 A Ultimately the recommendation is
7 included in a draft memo for the Director to
8 review. Whether or not he changes that
9 recommendation, that's his prerogative in the
10 end.

11 Q Sure.

12 But with respect to the memo that
13 does go to him for a review, who is in charge
14 ultimately of what appears in that memo?

15 A Well, as --

16 MR. CHO: Object to the form. The
17 witness can answer.

18 A As chief I'm the last one to see it
19 before he sends it so ...

20 Q Thank you.

21 Okay. So, Mr. Law that same day,
22 October 22nd, on Sunday, 6:28 p.m., he

1 responds to you and says, "The draft is
2 overwhelmingly weighted for extension which I
3 do not think is the conclusion we are looking
4 for."

5 Did I read that right?

6 A Yes.

7 Q "The memo seems to dismiss or
8 downplay the positive developments that should
9 suggest reauthorization is inappropriate. The
10 memo also makes no mention of the substantial
11 amount of foreign aid the U.S. and charities
12 have invested in Haiti since the earthquake,
13 another relevant factor to indicate that Haiti
14 no longer meets the definition of TPS."

15 Did I read that right?

16 MR. CHO: The document speaks for
17 itself.

18 A That is what it says.

19 Q So your email to him doesn't --
20 doesn't tell him to revise the memo to fully
21 support termination, correct?

22 MR. CHO: Object to the form. The

1 document speaks for itself. The witness may
2 answer.

3 A It does not say that.

4 Q Okay. But his response is -- it's
5 "weighted for extension, which I don't think
6 -- which I do not think is the conclusion we
7 are looking for. The memo seems to dismiss or
8 downplay the positive developments." And he
9 then asks you, "I can track change edits
10 tonight or we can discuss in the morning,
11 whatever your preferred timing is," correct?

12 A That's correct.

13 Q And did you have an understanding at
14 the time that he would revise the memo to
15 reach the -- reach what he says here, "the
16 conclusion we are looking for"?

17 MR. CHO: Object to the form.

18 That's Robert Law's email to Kathryn -- or
19 Kathy. The witness may answer.

20 A No, I only instructed him to edit
21 the document as he saw fit.

22 Q What did you understand him to mean

1 by saying "the draft is overwhelming weighted
2 for extension which I do not think is the
3 conclusion we are looking for"?

4 MR. CHO: Objection.

5 A I don't know what he had to -- what
6 he meant by that. The first part of that
7 sentence is "the draft is overwhelming
8 weighted for extension." It's an observation
9 that he made, I guess. I'm not certain that
10 we even discussed what a conclusion would be
11 prior to seeing this memo.

12 Q Okay. Do you see the very top email
13 in this chain where he emails you Sunday,
14 October 22nd, at 7:04 p.m. and he says, "Edits
15 attached. I made the document fully support
16 termination and provided comment boxes where
17 additional data should be provided to back up
18 this decision."

19 So, did you understand that the
20 conclusion that he is referring to there is
21 termination as opposed to extension?

22 MR. CHO: Object to the form. The

1 document speaks for itself. The witness may
2 answer.

3 A He says right there that he made the
4 document support termination, so that's
5 apparently what he did when editing the
6 document.

7 Q When he sent you the email at 6:28
8 p.m. there, did you agree with his assessment
9 that "the draft is overwhelming weighted for
10 extension which I do not think is the
11 conclusion we're looking for"?

12 MR. CHO: Object to the form.
13 Assumes facts not in evidence. The witness
14 may answer.

15 A I may never have looked at this memo
16 before he did, so I can't say that I agreed or
17 disagreed.

18 Q So even if you hadn't looked at it
19 and don't recall whether you looked at it,
20 would you still have understood that in that
21 first sentence there he's talking about the
22 ultimate recommendation that the memo

1 includes?

2 MR. CHO: Object to the form. Calls
3 for speculation, is also a hypothetical.
4 Assumes facts not in evidence either. The
5 witness may answer if she's able to.

6 A That first sentence could mean that
7 it's weighted one way or the other, which
8 ultimately I would like to have a memo that
9 includes, again, the full picture of what's
10 going on for the Secretary to make a decision.

11 Q So when he says it's "overwhelmingly
12 weighted for extension," I think your
13 observation would apply. But when he says,
14 "which I do not think is the conclusion we are
15 looking for," was it your understanding that
16 he was referring to the ultimate
17 recommendation in the memo?

18 MR. CHO: I object. Again, those
19 are Robert Law's words, and assumes facts not
20 in evidence. Assumes there was a
21 recommendation in said memo. But the witness
22 may answer if she's able to.

1 A I do not know if it's about the
2 recommendation or if it's about the draft, "is
3 not what we're looking for."

4 Q So when he says, "The memo seems to
5 dismiss or downplay the positive developments
6 that should suggest reauthorization is
7 inappropriate," was it your understanding that
8 his words there, that "reauthorization is
9 inappropriate," referred to the recommendation
10 made in the memo?

11 MR. CHO: Again, objection, calls
12 for speculation. The witness may answer as to
13 what she knows.

14 A I don't know what he was saying with
15 this sentence, but I guess it speaks for
16 itself.

17 Q Did you understand him here to be
18 saying that the memo needs to be revised to
19 reflect that reauthorization is inappropriate
20 and that Haiti no longer meets the definition
21 of TPS?

22 MR. CHO: Object to the form. Calls

1 for speculation. The witness may answer.

2 A It appears that he is not satisfied
3 with the memo. It fails to mention certain
4 information, such as foreign aid and the
5 charities and other relevant factors, positive
6 developments.

7 I think he's saying that the memo
8 just lacks certain information.

9 Q I see -- I do see that, but I -- I
10 guess I'm asking you about the words he uses
11 "I do not think this is the conclusion we are
12 looking for ... Should suggest reauthorization
13 is inappropriate," and at the end there,
14 "another relevant factor to indicate that
15 Haiti no longer meets the definition of TPS."
16 Do those -- do the statements there really
17 address the ultimate recommendation that's
18 concluded in the memo as opposed to specific
19 contents, country conditions, in the memo?

20 MR. CHO: Again, object to the form
21 of the question. Assumes facts not in
22 evidence. Assumes there was a recommendation

1 in this draft memo. The witness may answer if
2 she knows.

3 MS. WEBB: I would consider that an
4 inappropriate speaking objection.

5 MR. CHO: Fair enough. Maybe you
6 can rephrase the question then.

7 MS. WEBB: Okay. But I would
8 appreciate if you wouldn't make speaking
9 objections like that, Counsel.

10 MR. CHO: Okay. Understood. But,
11 again, it is assuming facts not in evidence.

12 MS. WEBB: I'm just reading the
13 words in the email.

14 MR. CHO: The word "recommendation"
15 does not appear in that email.

16 MS. WEBB: Oh, I understand, but my
17 question accounts for that.

18 MR. CHO: It does not.

19 MS. WEBB: Okay. I -- well, it was
20 a long question so I'll -- I'll rephrase it to
21 make it a little shorter.

22

1 BY MS. WEBB:

2 Q So I do -- I agree with you there,
3 that he does say that the draft doesn't
4 include certain contents and data, you know,
5 that would help inform an ultimate
6 recommendation. But I'm also asking you about
7 his other language in there which speaks to
8 "the conclusion we are looking for" and
9 "reauthorization is inappropriate" and "Haiti
10 no longer meets the definition of TPS." I'm
11 asking you if you understood at the time that
12 what he was talking about here was the
13 recommendation that is in the draft decision
14 memo.

15 MR. CHO: Again, I object to the
16 form and assumes facts not in evidence.

17 A It could be the recommendation, and
18 even if it was the recommendation, it's one
19 person's viewpoint of what that recommendation
20 would ultimately be. That recommendation is
21 reviewed by several people before the Director
22 ultimately decides what his recommendation is

1 going to be.

2 Q And you responded "Edit away!,"
3 correct?

4 A That's correct.

5 Q I just want to clarify, is it your
6 testimony here that, sitting here today, you
7 don't remember exactly how you understood this
8 email? Or is it your testimony that when you
9 received this email, you really didn't know
10 what he was talking about --

11 MR. CHO: Object to the form.

12 Q -- in the -- in the ways that we've
13 discussed?

14 MR. CHO: Object to the form.

15 A My testimony is that he could -- he
16 could mean a recommendation, but he ultimately
17 did not like the way the draft memo was worded
18 or what it included or failed to include.

19 Q And I'm asking you about what your
20 understanding was to the extent you recall
21 when you received this email on October 22nd,
22 2017.

1 MR. CHO: Object to the form.

2 A I don't know what I recall at that
3 time thinking what his email meant, but
4 ultimately I wanted him to edit it as he saw
5 fit.

6 Q Okay. To reflect that --

7 A To make it a better memo.

8 Q Okay. To make it a better memo.

9 And to -- to remove the weight for
10 extension that it contained?

11 MR. CHO: Object to the form.

12 A I think you're putting words in my
13 mouth. To make the memo better to include
14 information that it should include.

15 Q Why would it be better to remove the
16 -- what he characterizes as it's weighted for
17 extension?

18 MR. CHO: Object to the form.

19 A No, I'm saying it would be better if
20 he included all of the information that the
21 Secretary would need to make a decision. So
22 if it dismissed certain developments or it

1 lacked information such as foreign aid or
2 positive developments, then it should include
3 that information.

4 Q Okay. And when he sent you back
5 this document that "fully supports
6 termination," did you view that as a better
7 memo?

8 MR. CHO: Object to the form.

9 A I do not know. I would have to look
10 at the memo. I don't know.

11 Q Okay. One other thing. I noticed
12 that in that last email to you he says, "I
13 made the document fully support termination
14 and provided comment boxes where additional
15 data should be provided to back up this
16 decision."

17 So had you asked him to locate more
18 data to back up the recommendation to
19 terminate?

20 MR. CHO: Object to the form.

21 A I don't know if I asked him to do
22 that or not.

1 Q All right. Let's move on.

2 (Exhibit 128 was marked for
3 identification and attached to the deposition
4 transcript.)

5 MS. WEBB: I only have two copies
6 for you.

7 MR. CHO: That's fine. We can
8 share.

9 What number is this?

10 MS. WEBB: 128.

11 MR. CHO: The government objects to
12 Exhibit 128, Bates number CP_2736, on the
13 grounds that these email exchanges contain
14 internal governmental deliberations, but the
15 witness may answer questions about the
16 exhibit.

17 The government also objects to the
18 extent this document contains any information
19 protected by the presidential communications
20 privilege.

21 A (Document review.)

22 Okay.

1 Q So, going to the earliest email in
2 this email chain on the last page, so this
3 email is as sent by you October 22nd, 2017, at
4 4:47 p.m., correct?

5 A That is correct.

6 Q That is the same day, correct, as
7 the email we were just discussing, email
8 exchange you had with Mr. Law, correct --

9 A Correct.

10 Q -- in Exhibit 127.

11 Okay. And this is the same day that
12 Mr. Law revised the memo, the current draft of
13 the memo to fully support termination,
14 correct?

15 A That is correct.

16 Q Okay. Just to point out, so it
17 looks like your email to Mr. Law was sent on
18 Sunday, October 22nd, at 4:23 p.m., and this
19 email was sent on Sunday, October 22nd, at
20 4:47 p.m., correct?

21 A Correct.

22 Q So I just want to ask, because we

1 have a bunch of new people here, who is who.

2 So, first, John?

3 A Zadrozny.

4 Q Sorry. Zadrozny. Thank you for
5 that.

6 Who is he?

7 A I don't know his title. He works
8 for the Domestic Policy Council.

9 Q Okay. What is the Domestic Policy
10 Council?

11 A I think it's a small organization
12 within the White House that determines
13 domestic policy.

14 Q Okay. Do you know if it still
15 exists today?

16 A It still exists today and has
17 existed in previous administrations.

18 Q Okay. And immigration is one of
19 their areas of policy that they work on?

20 MR. CHO: Object to the form.

21 A They work on all domestic policy,
22 healthcare, education.

1 Q Okay. Do you know if there are
2 subject matter experts within -- not subject
3 matter experts -- but within domestic policy,
4 are there individuals who have more expertise
5 in particular policy areas?

6 A I do not know.

7 Q In your role as chief of OP&S, how
8 often would you say you interact with the
9 domestic policy council?

10 A Quite frequently. Domestic policy
11 council convenes interagency meetings. And
12 when immigration comes up, I'm normally
13 invited. Frankly --

14 Q Okay. How -- go ahead.

15 A No.

16 Q Approximately how frequently would
17 you say you interact with them, once a week or
18 --

19 MR. CHO: Object to the form.

20 Q -- daily?

21 MR. CHO: Same objection.

22 A On a weekly basis, maybe a few times

1 a week. Depends on what's going on.

2 Q Okay. Prior to October 22nd, 2017,
3 do you recall interacting with DPC on TPS
4 issues?

5 MR. CHO: Object to the form.

6 A Not specifically on TPS issues.
7 I've interacted with them before this date,
8 but I don't recall them being involved in TPS
9 decisions.

10 Q Okay. Let's keep going with the
11 email recipients.

12 Zina Bash, do you know who she is?

13 A I'm just reading her title, Special
14 Assistant to the President, Domestic Policy
15 Council.

16 Q Do you have any memory of
17 interacting with her prior to October 22nd,
18 2017?

19 A Yes, I'm familiar with Zina Bash.

20 Q What about Trevor Whetstone?

21 A He also works for the Domestic
22 Policy Council. I interacted with frequently,

1 too.

2 Q When you sent this email, did you
3 have an understanding that these three
4 individuals from DPC did work on immigration
5 issues?

6 A Yes.

7 Q Is any one of them sort of a point
8 person for immigration issues within DPC, or
9 maybe they all are?

10 A I think they all are.

11 Q Then we see Mr. Hamilton is copied.

12 A And Mr. Wetmore, too.

13 Q I'm sorry, his name is -- and David
14 Wetmore, who --

15 A He was also -- he was detailed to
16 the Domestic Policy Council as well.

17 Q Okay. Detailed from, do you know
18 where?

19 A I think the Department of Justice.

20 Q So you address the email, "DPC
21 friends." Just a question about that. Did
22 you know these people well? Why did you

1 choose that particular greeting?

2 MR. CHO: Object to the form.

3 A I guess it's just a friendly
4 introduction. I considered them -- I've
5 worked with John Zadrozny for years. I've
6 known John.

7 Q For a long time?

8 A Yes.

9 Q And just what about the others, I
10 guess, what about Zina, Ms. Bash?

11 A No. I don't have a history with
12 Zina Bash or Trevor or Wetmore. I knew of
13 them.

14 Q So you say, "Acting Secretary Duke
15 has to make a decision on TPS for El Salvador,
16 Nicaragua, Haiti, and Honduras in the very
17 near future."

18 So, as of October 22nd, do you
19 recall where you were in terms of the drafting
20 process for the decision memo that was going
21 to the Director of USCIS?

22 A It appears it was still with -- it

1 was on my desk and so still in the OP&S
2 drafting stage.

3 Q Okay. You had sent it to Mr. Law to
4 revise.

5 A Yes.

6 Q And then the second sentence --
7 okay. "So two of the four designations must
8 be decided by November 6. When we met with
9 her last week, she wanted input from our
10 departments and agencies."

11 Do you remember meeting with Acting
12 Secretary Duke?

13 A I don't remember this specific
14 meeting. I think I met with her on at least
15 one or two occasions so I don't -- I can't
16 distinguish between the meetings.

17 Q Okay. In either of those meetings,
18 do you recall discussing TPS with her?

19 MR. CHO: Object to the form. Also
20 object on the grounds it seeks information
21 leading to internal governmental
22 deliberations, but the witness may answer.

1 A I do remember meeting with her on
2 TPS.

3 Q Okay. Do you recall her wanting
4 input from other departments and agencies?

5 MR. CHO: Object to the form, and it
6 also seeks information on internal
7 governmental deliberations, but the witness
8 may answer.

9 A I do recall she wanted information
10 from other departments and agencies.

11 Q Okay. What do you recall about
12 that?

13 MR. CHO: Same objection.

14 A I think this was -- there were
15 several designations coming up, and she wanted
16 input from partners, and she thought that was
17 important, to make sure we had input from
18 departments and agencies that had equities in
19 those countries.

20 Q Okay. Even though it's not required
21 under the statute?

22 A Right.

1 MR. CHO: Object to the form.

2 Q So you ask the DPC members to help
3 us effectuate this request, and then, "Should
4 it go through OMB?" you ask. "We don't have
5 actual Federal Register Notices to show you
6 yet, so I'm not sure what the process would
7 look like. Given the need to move quickly,
8 I'm wondering if you have thoughts!?"
9 Correct?

10 A Uh-hmm, correct.

11 Q Did you have an understanding that
12 they would understand what you mean by this,
13 to effectuate this request, to get input from
14 other departments and agencies?

15 MR. CHO: Object to the form. You
16 may want to rephrase that question.

17 Q Did you understand the question?

18 MR. CHO: Same objection.

19 A I would hoping -- I don't know if
20 they knew what I meant, but essentially
21 because they have contacts in other
22 departments and agencies, I wanted to know how

1 to go about fulfilling this request and
2 whether or not it should be centralized.

3 Q Okay. Were you also seeking their
4 input into the TPS information?

5 MR. CHO: Objection to form.

6 Q "Need interagency input."

7 MR. CHO: Object to the form.

8 A I don't -- in this email I don't ask
9 the agency for their input. I asked them to
10 help me get input from other departments and
11 agencies.

12 Q Okay. That's what you -- when you
13 wrote this, was that your intent, to have them
14 sort of coordinate?

15 A Yes.

16 Q Okay. At the time, why was there a
17 need to move quickly?

18 A She needed to make a decision by
19 November 6th, and we needed information for
20 her to make her decision.

21 Q This was information that was not
22 required by the statute, though --

1 MR. CHO: Object to the form.

2 Q -- to make a decision, correct?

3 MR. CHO: Object to the form. Calls
4 for a legal conclusion. The witness may
5 answer.

6 A It's not required by the statute.
7 It is required in the statute to consult with
8 federal partners.

9 I don't have the statute in front of
10 me, but there's a consultation process. It
11 doesn't lay out exactly what that consultation
12 process looks like. It doesn't preclude input
13 from departments and agencies.

14 Q Okay. Well, you write, "Even though
15 this is not required by statute, she asked us
16 to look into having some process in place for
17 obtaining their input before making the
18 decision," so I was just trying to understand
19 what you wrote here.

20 MR. CHO: Object to the form.

21 Q So was this input that she wanted
22 gathered, was this required by the statute,

1 this input, or was it not?

2 MR. CHO: Object to the form.

3 A I would need the statute to better
4 explain that.

5 Q But here in this email you wrote
6 that it was not required by statute, correct?

7 MR. CHO: The document speaks for
8 itself.

9 A There is a consultation -- there is
10 a consultation requirement in the statute,
11 but, again, I did write here, "Even though
12 this is not required by statute," that this
13 extra process is what I'm probably referring
14 to. We still sought certain -- or other
15 input. And I think at this point, we probably
16 had input from the Department of State
17 already.

18 Q Okay. So the next email in the
19 chain is from Mrs. Bash, 5:04 p.m., the same
20 day. And says, "Usually if there's paper to
21 share, we can send out through OMB for them to
22 gather comments from the interagency. But if

1 the point is to gather ideas before there is
2 paper, then it seems that a good approach
3 could be to convene a PCC with the relevant
4 agencies from which Duke wants input."

5 Correct?

6 A Correct.

7 Q And you did define PCC earlier in
8 the deposition, but could you just remind me
9 what that stands for.

10 A Policy Coordinating Committee.

11 Q Could you just describe briefly what
12 that is.

13 MR. CHO: Objection. Asked and
14 answered. You can answer again.

15 A It's not unique to this
16 administration. Previous administrations have
17 had PCCs. It's a way to coordinate
18 interagency discussions on various issues.

19 Q You said they convene frequently?

20 A And on different topics.

21 Q Okay, thank you.

22 Okay. And so, I know you're not

1 her, but just to try to get a sense, what did
2 you understand her to mean by if there's paper
3 to share there?

4 A Well --

5 MR. CHO: Object to the form.

6 A -- normally OMB manages an
7 interagency process. When there is paper,
8 when there's Federal Register Notice or other
9 regulation, they share it for comment. But
10 because there was no paper, Zina Bash is
11 suggesting maybe an in-person meeting so that
12 we could have a discussion on it instead.

13 Q Okay. And -- so you used the
14 example of Federal Register Notice. So we
15 know -- we know, I guess, there's a draft
16 document, which is paper. Is that not the
17 kind of document that a PCC -- excuse me, that
18 OMB would be sharing?

19 MR. CHO: Object to the form. Go
20 ahead.

21 A OMB -- I'm not sure I understand
22 your question, but OMB would share a Federal

1 Register Notice when it's appropriate. Our
2 Federal Register Notices are not provided to
3 OMB until after a decision is made.

4 Q Okay. So we're at the draft stage
5 so there's no --

6 A There might be a draft of the
7 Federal Register Notice, but it would be, in
8 my view, too early to do a Federal Register
9 Notice until you know what the decision is.

10 Q After Ms. Bash's email, there's some
11 exchange about, "if we have time for PCC," and
12 then Mr. Zadrozny?

13 A Zadrozny.

14 Q Zadrozny asks, "What if we jumped
15 right to a paper PC?" What's a paper PC?

16 A I'm not that familiar with a paper
17 PC. I believe paper PC may be a process for
18 principals to review paper.

19 Q Okay. Then right after that,
20 Mr. Zadrozny responds, really the same minute,
21 responds, "Stressing that this is being done
22 at the request of DHS to help make a more

1 robust decision?" correct?

2 A That is correct.

3 Q So your initial email had not used
4 the phrase "more robust decision," correct?

5 MR. CHO: Object to the form.

6 A I don't know what he means by more
7 robust. I did not use that terminology. She
8 wanted input before she decided.

9 Q Okay. It looks like no one actually
10 responds to Mr. Zadrozny's question, correct?

11 A Correct.

12 Q So subsequently five minutes later,
13 Mr. Hamilton responds and says -- he skips
14 over Mr. Zadrozny -- I'm sorry, Zadrozny's
15 emails, and says, "Do it through OMB. They
16 have 24 to 48 hours to tell us about any of
17 their equities in the countries that would
18 affect the statutory factors (do they have
19 special knowledge of economies, hurricane
20 damage from 20 years ago, et cetera.)."

21 Did I read that right?

22 A Yes.

1 MR. CHO: Object to the form.

2 Q Sorry, I didn't hear you.

3 So, I guess you had requested help
4 responding to Secretary Duke's request for
5 input that was not required by the TPS
6 statute, correct?

7 MR. CHO: Object to the form.
8 Mischaracterizes her prior testimony.

9 A I was helping to fulfill her request
10 for more input.

11 Q Okay. When he -- when Mr. Hamilton
12 wrote this, did you understand him to be
13 suggesting that OMB help provide the kind of
14 information the statute does require to be
15 considered?

16 MR. CHO: Object to the form.

17 A He's suggesting that it's a better
18 process to send it through OMB. That's my
19 belief.

20 Q Okay. But what about the second
21 sentence that he writes. What did you
22 understand him to mean by that?

1 A That they had 24 to 48 hours to tell
2 us about their equities.

3 MR. CHO: Same objection.

4 Q Okay. Then when he says, "In the
5 countries that would affect the statutory
6 factors," and he has some examples there in
7 the parentheses, what did you understand that
8 to mean?

9 MR. CHO: Same objection.

10 A I'm sorry, I don't know what he
11 means by this sentence. The first part is
12 simply just to set a deadline for interagency
13 input.

14 Q Okay. So his next sentence he says,
15 "We aren't going to get into a whole 'there
16 are a lot of people who would be impacted'
17 type of PCC, DC, or PC." What does DC mean,
18 do you know?

19 A DC means Deputies Committee.

20 Q Okay.

21 A PC means Principal Committee, I
22 believe.

1 Q Okay. What did you understand him
2 to mean by that sentence?

3 MR. CHO: Object to the form.

4 A I'm not quite certain what he means.
5 I think he thought the OMB process was a
6 better process than a sit-down meeting with
7 staff or deputies, principals.

8 Q Okay. When he says, "We aren't
9 going to get into a whole 'there are a lot of
10 people who would be impacted' type of PCC, DC,
11 or PC," did you understand him to be referring
12 to arguments that TPS should not be extended
13 just because it would impact a lot of TPS
14 beneficiaries?

15 MR. CHO: Object to the form.

16 A That could be what he means, but I'm
17 not certain.

18 Q And then Mr. Zadrozny responds a few
19 minutes later -- you really got great response
20 time in your email.

21 A On a Sunday.

22 Q He says, "Adding Andrew." We'll

1 pause. Is that --

2 A He's adding Andrew Veprek, also with
3 the Domestic Policy Council.

4 Q Okay. And he says, "Gene's point is
5 good. Stick as closely to the economics as
6 possible. It wouldn't hurt of" -- probably
7 "if" -- "DHS specifically asked for how TPS
8 countries compare economically to their
9 non-TPS neighbors. The reason I think this
10 would be helpful is that poor economies are
11 usually cited as support for the need to
12 continue to extend TPS. But the reality is,
13 some of these countries' economies are as poor
14 as their non-TPS neighbors. It would then be
15 harder to blame volcanic eruptions and
16 earthquakes from 30 years ago for those failed
17 economies."

18 Did I read that right?

19 MR. CHO: Objection. The document
20 speaks for itself.

21 A That is what the document says.

22 Q So it's your testimony that as of

1 October 22nd, 2017, Secretary Duke was still
2 gathering information for her TPS decisions
3 that could affect the decision either way,
4 right, to terminate or extend?

5 MR. CHO: Object to the form.

6 A That is correct.

7 Q Is it also your testimony that at
8 this time you did not have an understanding
9 that the decision to terminate as a practical
10 matter had already been made?

11 MR. CHO: Object to the form.

12 A I don't believe a decision had been
13 made yet.

14 Q Okay. So here in this email
15 Mr. Zadrozny is recommending that DHS ask for
16 certain information, correct?

17 MR. CHO: Object to the form.

18 A He is making a suggestion, yes.

19 Q Okay. And that information he's
20 recommending DHS request is comparative
21 economic data to make it harder to blame, what
22 he says, "volcanic eruptions and earthquakes

1 from 30 years for those failed economies,"
2 correct?

3 MR. CHO: Object to the form.

4 A I don't really know what he's
5 saying.

6 Q You don't know now or you didn't
7 know then?

8 MR. CHO: Object to the form.

9 A I don't know now what he was
10 suggesting.

11 Q What's your best guess to what he's
12 suggesting?

13 MR. CHO: Object to the form. Don't
14 guess. Testify to what you know.

15 A I only know he wanted -- he's
16 offering a suggestion on how to look at the
17 economies.

18 Q Okay.

19 A Or their economic factors.

20 Q Okay. In a way that would -- that
21 would support -- that would -- excuse me, in a
22 way that would not support extending TPS,

1 correct?

2 MR. CHO: Object to the form.

3 Argumentative.

4 A It doesn't say to extend or to
5 terminate. He's -- I think he's just simply
6 laying out that we should look at the economic
7 factors.

8 Q Okay. You don't know what he means
9 by the last two sentences of his email?

10 MR. CHO: Object to the form.

11 A I don't know what he's -- I really
12 don't know what he's arguing or what he's
13 saying.

14 Q Well, I guess one simple question,
15 does he appear to be saying that he doesn't --
16 he wants to make it harder to blame
17 earthquakes -- previous earthquakes for failed
18 economies?

19 MR. CHO: Object to the form. It's
20 a hypothetical. Calls for speculation.
21 Rephrase your question or you can answer if
22 you can.

1 A I really don't know what he's
2 saying. Reading it now it doesn't make sense
3 to me.

4 Q And then the top email from
5 Mr. Veprek says, "I agree with Gene and JZ
6 about doing this via OMB. Use the draft FR
7 notices to solicit the agency feedback. If
8 any of it is really compelling, then DHS can
9 have further informal consultations that it
10 manages, not NSC."

11 Did I read that right?

12 A I think so.

13 Q What is an NSC?

14 A NSC, I believe, stands for National
15 Security Council, I believe.

16 Q That's what I was wondering.

17 So at this point were there draft FR
18 Notices for the TPS decision that had yet to
19 be made?

20 A Staff could have drafted a Federal
21 Register Notice. I normally didn't look at
22 the notices until a recommendation or later in

1 the process.

2 Q Do you recall making a policy change
3 during your time as chief to where you
4 actually asked your staff not to do these
5 draft FR Notices before a decision had been
6 made?

7 MR. CHO: Object to the form.

8 A So when I first started, they would
9 draft a recommendation memo and a Federal
10 Register Notice. And it seemed that they were
11 putting a lot of work in a Federal Register
12 Notice up front, that they could save their
13 time and resources by waiting until the
14 decision had been made.

15 Q Sure.

16 A So to answer your question, yes,
17 eventually we thought it was better use of
18 resources and we stopped the practice of
19 circulating both documents.

20 Q And that was early on in your tenure
21 as chief?

22 MR. CHO: Object to the form.

1 A I believe so.

2 Q Do you know whether there were --
3 whether there was any draft FR Notice for the
4 Haiti decision at this time, October 22nd,
5 2017?

6 A I do not.

7 Q This is the last email we have, but
8 do you recall whether this process went
9 forward?

10 MR. CHO: Object to the form.

11 A I don't recall ultimately how we
12 received input from other entities. It could
13 have been an in-person meeting.

14 Q Do you recall whether it went
15 through OMB?

16 A I don't recall.

17 MS. WEBB: Let's just take a quick
18 break, and then I'll wrap up.

19 MR. CHO: Great.

20 THE VIDEOGRAPHER: Going off the
21 record at 5:03.

22 (A brief recess was taken.)

1 THE VIDEOGRAPHER: We're back on the
2 record at 5:19.

3 MS. WEBB: Let's mark 129.

4 (Exhibit 129 was marked for
5 identification and attached to the deposition
6 transcript.)

7 MS. WEBB: And also I would like to
8 mark 130.

9 (Exhibit 130 was marked for
10 identification and attached to the deposition
11 transcript.)

12 MS. WEBB: Sorry, I think I just
13 have that one. Do we have any others, more
14 copies of this?

15 MR. CHO: The government objects to
16 Exhibits 129 and 130 on the grounds that these
17 emails seek internal governmental
18 deliberations, but given that, the witness can
19 still answer questions regarding these
20 exhibits.

21 (Discussion off the record.)

22 MR. CHO: The government also

1 objects to Exhibit 130 on the grounds that
2 this email appears to relate to El Salvador as
3 opposed to Haiti, and during prior
4 depositions, counsel has limited their
5 questions to Haiti. I'm just noting that for
6 the record.

7 MS. WEBB: Actually we talked about
8 Sudan yesterday with Director Cissna.

9 A (Document review.)

10 Okay.

11 Q Let's start with 128.

12 A 129.

13 Q I'm sorry, 129. 130. I apologize.

14 A Yes.

15 Q Okay.

16 This is an October 26th, 2017,
17 email. So there's a few new people on this
18 email that I'll ask you about. Who is Ian
19 Smith?

20 A He was a political appointee in the
21 Office of Policy at DHS headquarters.

22 Q Do you know what his position was

1 there?

2 A No.

3 Q What about Jared Culver?

4 A He also was with the Office of
5 Policy at DHS headquarters.

6 Q Do you know his title?

7 A No.

8 Q Jon Feere?

9 A Jon Feere was at Immigration and
10 Customs Enforcement. He's in the front office
11 but advisor -- I don't know what his exact
12 title is.

13 Q Okay. Do you know when Mr. Smith
14 assumed his position at the Office of Policy
15 at headquarters, approximately?

16 A I have no idea.

17 Q You said "was," so he's no longer
18 there?

19 A He's no longer there.

20 Q Do you recall receiving this email
21 from him?

22 A No.

1 Q So he says, "I've created a bit of a
2 running, working, internal template for
3 educating colleagues/colleagues on the TPS
4 issue. Over the past few months, I've found
5 the arguments for letting certain designations
6 expire to be tired and generally lacking."

7 Do you know what designations had
8 expired in the past few months at this time,
9 what TPS designations?

10 A No.

11 Q So then he says, "Areas I explore
12 (and will explore further) include the number
13 of removals we already initiate to these
14 'disastrous' countries, previous generous
15 applications of mass removal reprieves, and
16 the brain-drain phenomenon which in the case
17 of Central America is particularly
18 pronounced."

19 Do you know what he's referring to
20 when he says "generous applications of mass
21 removal reprieves"?

22 MR. CHO: Object to the form. Calls

1 for speculation.

2 A I do not.

3 Q Is he possibly referring to the TPS
4 program?

5 MR. CHO: Object to the form.

6 A I do not know.

7 Q Do you know what he means by
8 "brain-drain phenomenon"?

9 MR. CHO: Object to the form.

10 A I do not know.

11 Q Then he lists sort of a schedule
12 about upcoming decision and expiration dates.
13 Then below that he says, "Also to note, the
14 attached does apply to El Salvador in
15 particular, however, the general headings and
16 framework can easily apply to the other
17 sizable TPS beneficiaries."

18 Do you have a sense of how many TPS
19 beneficiaries there are from any of these four
20 countries that he lists?

21 MR. CHO: Object to the form.

22 A I could guess, but I don't know. I

1 don't know all of them. Nicaragua, maybe
2 6,000.

3 Q Okay.

4 A I don't recall Honduras off the top
5 of my head. Haiti, I think it's 50 or 60,000.
6 And El Salvador is a couple hundred thousand.

7 Q Okay. And Exhibit 130, so the first
8 email in this chain is dated December 7th,
9 2017.

10 MR. CHO: I'm going to object to
11 this email. This is post decision. The
12 decision was made November 2017. What
13 relevance does this have to this lawsuit?

14 MS. WEBB: Well, it's discussing TPS
15 generally, and we're interested in the
16 government's approach to certainly Haiti TPS
17 but also TPS countries as a package. They
18 simply applied the schematic approach to all
19 of them. So this goes to that. We think it's
20 relevant.

21 MR. CHO: This is December. The
22 decision was in November 2017. This is post

1 decision.

2 MS. WEBB: I understand, but it's a
3 deposition so I can, you know, ask questions.

4 MR. CHO: All right. Go ahead. I'm
5 just noting the objection for the record.

6 MS. WEBB: It's not going to be too
7 long.

8 MR. CHO: All right. Thank you.

9 BY MS. WEBB:

10 Q Okay, so Thursday, December 7th,
11 2017, you email Mr. Dougherty, James Nealon,
12 Jared Culver, and Ian Smith, who we just
13 identified. And James Nealon, Ambassador,
14 Former Ambassador Nealon?

15 A Yes.

16 Q He was -- well, remind me, he was --
17 do you know his position at this time?

18 A No, I don't.

19 Q Okay. And you ask about setting up
20 a call to discuss upcoming TPS decisions. Do
21 you recall at that time what up -- what TPS
22 decisions were upcoming?

1 A No, but the next sentence talks
2 about El Salvador and Syria.

3 Q Okay. That same day a few hours
4 later, Mr. Smith -- excuse me -- Mr. Nealon
5 then responds, "Sure," an hour -- about an
6 hour later. Then the same day, December 7th,
7 2017, Mr. Smith responds to just you and says,
8 "Hope you're enjoying the conference." Smiley
9 face.

10 Do you recall what conference --
11 whether you were at a conference?

12 A I don't -- I don't recall what
13 conference I would be at.

14 Q Okay. And he says, "Here are the
15 background notes I sent everyone weeks back.
16 I'm currently updating them and will resend
17 hopefully by today."

18 Do you recall him sending you those
19 notes?

20 A No.

21 Q You respond just two minutes later
22 to him. You say, "I actually stayed behind.

1 Maybe I should have gone, but oh well. Thanks
2 for this." Maybe you didn't go to the
3 conference.

4 A I don't think I went to the
5 conference.

6 MR. CHO: Again, the document speaks
7 for itself. What's the question about this
8 document?

9 MS. WEBB: We're getting there.

10 BY MS. WEBB:

11 Q The last email he responds to you,
12 again on the same day, and he has some
13 information that he provides to you. Correct?

14 A He does provide information.

15 Q And do you recall requesting this
16 information from him?

17 MR. CHO: Object to the form.

18 A No, I do not. I don't recall that.

19 Q Okay. Do you recall receiving it
20 from him?

21 MR. CHO: Object to the form. The
22 document speaks for itself. She's already

1 answered that question. You can answer it
2 again.

3 A No, I -- I don't recall seeing this.
4 I don't know what this data relates to. I
5 don't remember ever opening this email.

6 Q Do you recall asking Mr. Smith for
7 TPS-related information at other times than
8 this one?

9 MR. CHO: Object to the form.

10 A No, I don't think I would have asked
11 for input from DHS Policy aside from a general
12 discussion, as I indicated in my first email.
13 If I needed statistics, I would have emailed
14 our Office of Statistics.

15 Q How well would you say you knew
16 Mr. Smith?

17 A Not well at all.

18 MR. CHO: Object to the form.

19 A Not well.

20 Q Do you know whether Mr. Smith worked
21 on TPS-related issues in his position?

22 MR. CHO: Object to the form.

1 Object to the form.

2 A I do not know.

3 Q Are you aware of where Mr. Smith
4 worked prior to coming to DHS?

5 A I can't say with certainty, no.

6 Q Do you know whether he worked at
7 Federation of American Immigration Reform?

8 MR. CHO: Object to the form.

9 A I cannot say with certainty that I
10 knew he worked there, no.

11 Q Do you know that he worked there
12 now?

13 A No.

14 MR. CHO: Object to the form.

15 Q I think you testified earlier that
16 Mr. Law also used to work for the Federation
17 of American Immigration Reform, correct?

18 MR. CHO: Objection. Asked and
19 answered.

20 A I did know that, yes.

21 Q You mentioned that Mr. Smith does
22 not work for DHS any longer. Do you know why

1 he does not?

2 MR. CHO: Object to form.

3 A I do not know the truth behind any
4 allegations.

5 Q Are you familiar with what you just
6 said, the allegations?

7 A I read --

8 MR. CHO: Object to the form.

9 A I read allegations in a newspaper
10 article, but I do not know if that is true or
11 not.

12 Q What were those allegations?

13 MR. CHO: Object to the form.

14 A I can't even recall the specific
15 allegation. That he was emailing with people
16 outside his chain of command with outside
17 entities, with certain groups, certain
18 individuals. I don't even know.

19 Q He was emailing with them as part of
20 his work or in his private time?

21 MR. CHO: Object to the form. What
22 does this have to do with Haiti TPS?

1 A I don't know.

2 MR. CHO: I mean, this is going so
3 far afield.

4 MS. WEBB: All right. One last
5 exhibit.

6 (Exhibit 131 was marked for
7 identification and attached to the deposition
8 transcript.)

9 MR. CHO: What number is this?

10 MS. WEBB: 131.

11 A Do you want me to read this article?

12 Q I'm just going to ask you
13 specifically whether it refreshes your
14 recollection of the allegations against him as
15 you --

16 MR. CHO: Object to the form.

17 Q -- as you characterized them.

18 A I recall seeing this article. I
19 have not read it in its entirety. I skimmed
20 it, and that's why I barely know what the
21 allegations are. Nor do I care what the
22 allegations are.

1 I don't know Ian Smith very well at
2 all. He had no role in my drafting of a
3 recommendation memo to the Secretary on any
4 TPS designation, so ...

5 Q Okay.

6 Although this email does show that
7 he supplied you with information related to El
8 Salvador in response to a request by you for
9 input to discuss upcoming TPS decisions on El
10 Salvador, correct?

11 A I do not know if that information
12 was ever used, if I even opened the email.
13 That information looks new to me.

14 Q Okay.

15 MR. CHO: I renew my objection
16 regarding Exhibit 130. Again, this is post
17 decision and not related to Haiti at all.

18 Q Okay. We're done with that.

19 Are you familiar with DHS' H-2A
20 program?

21 MR. CHO: Object to the form. You
22 can answer.

1 A Yes.

2 Q And what is that program?

3 A H-2A stands for a classification in
4 Immigration and Nationally Act providing for
5 an avenue for low skilled or agricultural
6 workers to come into the United States for a
7 temporary amount of time.

8 Q Are you familiar with whether
9 nationals from Haiti are eligible for H-2A --
10 is it H-2A Visas?

11 MR. CHO: Object to the form.

12 A Yes. The list of countries that are
13 eligible for that classification change from
14 year to year.

15 Q Do you recall in November of 2017
16 sending comments -- excuse me -- sending USCIS
17 comments recommending that Haiti be taken off
18 the H-2A list?

19 MR. CHO: Object to the form.

20 A By taking them off the list meant
21 what?

22 Q Making them ineligible for H-2A

1 Visas for a time?

2 MR. CHO: Object to the form.

3 A I don't specifically recall what
4 USCIS comments were on the list. I do recall
5 -- we do provide input on that list, which is
6 circulated by the headquarter -- or the
7 department.

8 Q Okay. Were you involved in that
9 input?

10 A Yes.

11 Q Do you recall what the
12 recommendation was based on?

13 MR. CHO: Object to the form.

14 A The recommendation to take Haiti off
15 the list?

16 Q Right.

17 A I don't recall off the top of my
18 head. There are certain criteria for keeping
19 countries on and taking countries off.

20 Q Do you recall initially whether it
21 was based on a cable from -- State Department
22 cable from 2013?

1 MR. CHO: Object to the form.

2 A I don't recall.

3 Q Do you recall after you made the
4 recommendation that the State Department came
5 back and said that the information that
6 supported the recommendation was too remote?

7 A First of all, you just said that I
8 made the recommendation. I'm not certain that
9 I made a recommendation of that nature.

10 Q Sure. Sorry. Right. You testified
11 that you had input into it.

12 A Into --

13 MR. CHO: Object to the form.
14 Mischaracterizes her prior testimony.

15 A I had input into the Federal
16 Register Notice that took countries on and off
17 the list.

18 Q Okay.

19 A I don't know what the State
20 Department -- what input the state -- the
21 State Department provided.

22 MR. CHO: I also object on the

1 ground that these questions relating to H-2A
2 touch on internal governmental deliberations
3 which have nothing to do with TPS for Haiti,
4 so I'm not sure how many more additional
5 questions you have, but I just want to note
6 that objection for the record.

7 MS. WEBB: I just have one, which --
8 which doesn't really touch on it.

9 Q As a result of that recommendation
10 that was made, do you know whether Haiti was,
11 in fact, taken off the H-2A Visa list?

12 MR. CHO: Same objection.

13 A I can't say with certainty if they
14 were taken -- ultimately taken off the list or
15 not.

16 Q Do you know currently whether
17 they're off the list or on the list?

18 A I do not know.

19 MS. WEBB: That's all we have.

20 MR. CHO: Thank you. We will read
21 and sign the transcript. All right. We're
22 done.

1 THE VIDEOGRAPHER: The deposition is
2 concluded. We're going off the record at
3 5:42.

4
5 (Whereupon, the proceeding was
6 concluded at 5:42 p.m.)

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1 DEPOSITION ERRATA SHEET

2 Assignment No. 450090

3 Case Caption: Patrick Saget vs. Donald Trump

4

5 DECLARATION UNDER PENALTY OF PERJURY

6 I declare under penalty of perjury that I have read
7 the entire transcript of my Deposition taken in the
8 captioned matter or the same has been read to me, and
9 the same is true and accurate, save and except for
10 changes and/or corrections, if any, as indicated by me
11 on the DEPOSITION ERRATA SHEET hereof, with the
12 understanding that I offer these changes as if still
13 under oath.

14

15

16 SIGNED ON THE _____ DAY OF _____, 20__.

17

18 _____

19 KATHY NUEBEL KOVARIK

20

21

22

1	E R R A T A S H E E T		
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1	E R R A T A S H E E T		
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22	(DATE)		(SIGNATURE)

1 CERTIFICATE OF SHORTHAND REPORTER

2

3 I, Michele E. Eddy, Registered Professional
4 Reporter and Certified Realtime Reporter, the court
5 reporter before whom the foregoing deposition was
6 taken, do hereby certify that the foregoing transcript
7 is a true and correct record of the testimony given;
8 that said testimony was taken by me stenographically
9 and thereafter reduced to typewriting under my
10 supervision; and that I am neither counsel for,
11 related to, nor employed by any of the parties to this
12 case and have no interest, financial or otherwise, in
13 its outcome.

14 IN WITNESS WHEREOF, I have hereunto set my
15 hand and affixed my notarial seal this 24th day of
16 December, 2018.

17 My commission expires July 14, 2022

18

19

20

21 MICHELE E. EDDY
22 NOTARY PUBLIC IN AND FOR
THE DISTRICT OF COLUMBIA

A	157:4	244:18 246:5	alert 118:3	Angelica 7:16
ABC 132:19	additional 59:12	249:3	Alex 79:3,9	announced
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1 DEPOSITION ERRATA SHEET

2 Assignment No. 450090

3 Case Caption: Patrick Saget vs. Donald Trump

4

5 DECLARATION UNDER PENALTY OF PERJURY

6 I declare under penalty of perjury that I have read
7 the entire transcript of my Deposition taken in the
8 captioned matter or the same has been read to me, and
9 the same is true and accurate, save and except for
10 changes and/or corrections, if any, as indicated by me
11 on the DEPOSITION ERRATA SHEET hereof, with the
12 understanding that I offer these changes as if still
13 under oath.

14

15

16 SIGNED ON THE 4 DAY OF January, 2019.

17

18

19 Kathy Nuebel Kovarik
KATHY NUEBEL KOVARIK

20

21

22

1 E R R A T A S H E E T

2 IN RE: PATRICK SAGET V. DONALD TRUMP

3

4

5 RETURN BY: _____

6 PAGE LINE CORRECTION AND REASON

7 34 2 add "memo" after Haiti/missing

8 35 17 change Reese to Ries

9 37 15 change "meaning" to "maybe"

10 52 11 add "s" to Service.

11 80 21 change Laure Shalava to Lori Sch

12 104 1 strike "incumbent" ^{and} - replace "and comment"

13 _____

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21 _____ Katny Kovarik

22 (DATE) (SIGNATURE)

1 E R R A T A S H E E T

2 IN RE: PATRICK SAGET V. DONALD TRUMP

3

4 RETURN BY: _____

5 PAGE LINE CORRECTION AND REASON

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22 (DATE) (SIGNATURE)